

AGREEMENT FOR DEVELOPMENT AND PURCHASE AND SALE OF PROPERTY

BETWEEN

THE COMMUNITY REDEVELOPMENT AGENCY OF
THE CITY OF CLEARWATER, FLORIDA

AND

SP CLEARWATER WFH, LLC
A FLORIDA LIMITED LIABILITY COMPANY

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**AGREEMENT FOR DEVELOPMENT
AND
PURCHASE AND SALE OF PROPERTY**

This Agreement for Development and Purchase and Sale of Property located at 306 South Washington Avenue, Clearwater, FL 33756 ("Agreement") is made as of this April _____, 2021, by and between the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF CLEARWATER, FLORIDA, a public body corporate and politic of the State of Florida created pursuant to Part III, Chapter 163, Florida Statutes ("Agency"), and SP CLEARWATER WFH, LLC, a Florida limited liability company ("Developer").

W I T N E S S E T H:

WHEREAS, the Agency was created to implement the community redevelopment activities outlined under the Florida Community Redevelopment Act of 1969 codified as Chapter 163, Part III, Florida Statutes; and

WHEREAS, § 163.380(1), Florida Statutes provides that a community redevelopment agency may sell, lease, dispose of, or otherwise transfer real property or any interest acquired in the real property for community development in a community redevelopment area to any private person; and

WHEREAS, § 163.380(2), Florida Statutes provides that such real property shall be sold, leased, or otherwise transferred at a value determined to be in the public interest and that if the value of such real property is disposed for less than fair value, such disposition shall require the approval of the governing body at a duly noticed public hearing; and

WHEREAS, § 163.380(3)(a), Florida Statutes provides that prior to disposition of such real property the community redevelopment agency must give notice of disposition by publication in a newspaper having a general circulation in the community and invite proposals from private redevelopers or any persons interested in undertaking to redevelop or rehabilitate a community redevelopment area or any part thereof; and

WHEREAS, on April 17, 2020 the Agency released Request for Proposals #53-20 by publication in a newspaper having a general circulation in Clearwater, Florida requesting proposals to redevelop the real property commonly referred to as 306 South Washington Avenue, Clearwater, FL 33756 for a mixed-use or apartment development with a focus on workforce and market rate housing, the opportunity for shared parking to serve surrounding restaurant/retail businesses, construction to begin in 2021 and ample outdoor amenity space; and

WHEREAS, the Developer submitted a proposal for redevelopment of the real property as an apartment development with a focus on workforce and market rate housing on September 10, 2020; and

WHEREAS, representatives of the Agency and the City of Clearwater met on September 18, 2020 to evaluate said proposal and to make a recommendation to the Agency of whether to accept or reject the proposal; and

WHEREAS, representatives of the Agency and the City of Clearwater recommended approval the Developer's proposal; and

WHEREAS, the Agency and Developer negotiated a definitive Development and Purchase and Sale Agreement setting forth the respective duties and responsibilities of the parties pertaining to the conveyance of the Project Site (as hereinafter defined), and the design, development, construction, completion, operation and maintenance of the Project; and

WHEREAS, at a duly called public meeting on April 12, 2021 the Agency approved this Agreement and authorized and directed its execution by the appropriate officials of the Agency; and

WHEREAS, the Developer is a limited liability company organized under the laws of the State of Florida

and the members (as that term is defined in the operating agreement of the Developer) of Developer have approved this Agreement and have authorized and directed certain individuals to execute this Agreement on behalf of Developer; and

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

ARTICLE 1. DEFINITIONS.

1.01. **Definitions.** The terms defined in this Article I shall have the following meanings, except as herein otherwise expressly provided:

(1) "Act" means the Constitution of the State of Florida; Section 163.01, Florida Statutes, Part III, Chapter 163, Florida Statutes; Chapter 166, Florida Statutes, other applicable provisions of law, and ordinances and resolutions of the City and the Agency implementing them.

(2) "Agency" means the Community Redevelopment Agency of the City, as created by Resolution No. 81-68 of the City, adopted by the City Council on August 6, 1981, including any amendments thereto, and any successors or assigns thereto.

(3) "Agreement" means this Agreement for Development and Purchase and Sale of Property, including all exhibits and amendments hereto.

(4) "Agreement Expiration Certificate" means the instrument executed by the parties hereto as provided in Section 15.19 certifying that all obligations of the parties hereto have been satisfied and this Agreement has expired in accordance with its terms, the form of which is attached hereto as Exhibit "E."

(5) "Agreement Termination Certificate" means the instrument executed by the parties hereto as provided in Section 12.06 stating that this Agreement has been terminated prior to its Expiration Date as provided in Section 12.05.

(6) "Area" means the area located within the corporate limits of the City having conditions of slum and blight (as those conditions are defined in the Act) as found by the City Council in Resolution No. 81-67, adopted by the City Council on August 6, 1981 and as amended by Resolution No. 03-22, adopted by the City Council on May 1, 2003 and as subsequently amended thereafter..

(7) "Authorized Representative" means the person or persons designated and appointed from time to time as such by the Developer or the Agency, respectively, pursuant to Section 2.04.

(8) "Building Permit" or "Building Permits" shall mean, for all or any part of the Project to be constructed on the Project Site, any one or more permits issued by the City authorizing, allowing and permitting the commencement, prosecution and completion of construction to the extent provided in said permit(s).

(9) "City" means the City of Clearwater, Florida, a Florida municipal corporation, and any successors or assigns thereto.

(10) "City Council" means the governing body of the City, by whatever name known or however constituted from time to time.

(11) "Closing Date" means the date on which title to the Project Site is conveyed by the Agency to the Developer in accordance with and as contemplated by the provisions of Article 6 hereof.

(12) "Commencement Date" means the date of Commencement of Construction.

(13) "Commencement of Construction" or "Commence Construction" means the commencement of site work, utility relocation, above grade beams, floor slabs or other foundation component on the Project pursuant to a properly issued foundation permit.

(14) "Completion Certificate" means the certificate, in a form as set forth in Exhibit "G", to be executed by Agency and Developer stating that construction of the Project has been substantially completed.

(15) "Completion Date" means the date on which construction of the Project is substantially complete as evidenced by a Completion Certificate.

(16) "Contractor" means one or more individuals or firms constituting a general contractor or other type of construction contractor properly licensed by the State of Florida or other appropriate jurisdiction to the extent required by applicable law, authorized to perform construction contractor services in the State of Florida, registered with the City as required by applicable law, bonded and insured to the extent required by applicable law and this Agreement, including the Developer or any affiliates of the Developer.

(17) "Construction Financing" means the funds provided by the Construction Lender to the Developer during the term of this Agreement to pay the cost of developing and constructing the Project, or any portion thereof, on the Project Site, including, but not limited to, acquisition of the Project Site, financing costs, "soft costs," overhead, and the design, construction and equipping of the Project.

(18) "Construction Lender" means any person or persons providing the Construction Financing or any portion thereof.

(19) "Developer" means SP Clearwater WFH, LLC, a Florida limited liability company, and any successors and assigns thereof.

(20) "Effective Date" means the date determined in accordance with Section 15.20 when the Memorandum of Agreement for Development and Purchase and Sale of Property is recorded and this Agreement becomes effective.

(21) "Exhibits" means those agreements, diagrams, drawings, specifications, instruments, forms of instruments, and other documents attached hereto and designated as exhibits to, and incorporated in and made a part of, this Agreement.

(22) "Expiration Date" means the date on which this Agreement expires, as evidenced by the Agreement Expiration Certificate being recorded in the public records of Pinellas County, Florida, as provided in Section 15.19 hereof.

(23) "Impact Fees" means those fees and charges levied and imposed by the City, Pinellas County and any other governmental entity on projects located on the Project Site for certain services impacted by development such as the Project.

(24) "Permits" means all zoning, variances, approvals and consents required to be granted, awarded, issued, or given by any governmental authority in order for construction of the Project, or any part thereof, to commence, continue, be completed or allow occupancy and use, but does not include the Building Permit(s).

(25) "Plan" means the community redevelopment plan for the Area, including the Project Site, as adopted by the City Council on September 18, 2003, by enactment of its Ordinance No. 7153-03, and including any amendments to the Plan.

(26) "Project" means the 173-unit apartment development on the Project Site, composed of 60 700 sq. ft. 1BR units, 28 1020 sq. ft. 2BR Family units and 85 1020 sq. ft. 2BR Roommate units. The Project includes 275 parking units: 207 Garage spaces, 48 Surface spaces and 20 Surface Electric Vehicle spaces constructed substantially in accordance with the Project Plans and Specifications. A minimum of 40 parking spaces is dedicated to the public during business hours, as contemplated by the Narrative and Vision Statement of the Proposal and this Agreement.

(27) "Project Area Median Income Units" 18 units at 80% Area Median Income ("AMI") or less; 49 units at 100% AMI or less; and 106 units at 120% AMI. AMI refers to the Family Incomes published annually by HUD

that calculates income limits as a function of the area's Median Family Income.

(28) "Project Plans and Specifications" means the plans and specifications pertaining to the construction, installation and equipping of the Project, including the schedule for completing the Project.

(29) "Project Professionals" means any architects, attorneys, brokers, engineers, consultants, planners, construction managers or any other persons, or combination thereof, retained or employed by the Developer in connection with the planning, design, construction, permit applications, completion and opening of the Project, but does not include the Developer.

(30) "Project Site" means the tract of land located in the Area which is to be conveyed to the Developer by the Agency on which the Project will be located, as more particularly described and depicted on Exhibit "A."

(31) "Proposal" means the proposal for redevelopment of the Project Site, dated September 10, 2020, submitted by the Developer to the Agency in response to the RFP, a copy of which is attached to this Agreement as Exhibit "H".

(32) "RFP" means the Request for Proposals #53-20 initially published by the Agency on April 17, 2020 soliciting proposals from persons interested in redeveloping the Project Site in accordance with the Act and the Plan.

(33) "Site Plan" means the depiction and description of the Project on the Project Site, the initial version of which is attached hereto as Exhibit "B."

(34) "Termination Date" means the date on which this Agreement is terminated by any party hereto as provided in Section 12.05, and as evidenced by the Agreement Termination Certificate.

(35) "Unavoidable Delay" means those events constituting excuse from timely performance by a party hereto from any of its obligations hereunder, as such events are defined in and subject to the conditions described in Article 13 hereof.

(36) "Vertical Construction" means commencement of work on the Project pursuant to a properly issued Building Permit.

(37) "Vertical Construction Date" means the date upon which a permit for construction of a building on the Project Site has been issued.

1.02. Use of Words and Phrases. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the singular shall include the plural as well as the singular number, and the word "person" shall include corporations and associations, including public bodies, as well as natural persons. "Herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Agreement and not solely to the particular portion thereof in which any such word is used.

1.03. Florida Statutes. All references herein to Florida Statutes are to Florida Statutes (2018), as amended from time to time.

ARTICLE 2. PURPOSE; PROPOSAL.

2.01. Intent; Purpose of Agreement.

(a) The purpose of this Agreement is to further the implementation of the Plan by providing for the sale and conveyance of the Project Site to the Developer and the development, construction and operation of the Project thereon in accordance with the Project Plans and Specifications, all to enhance the quality of life, add new residents to the Downtown Core District, and improve the aesthetic and useful enjoyment of the Area through the eradication of conditions of blight, all in accordance with and in furtherance of the Plan and as authorized by and in accordance with the Act.

(b) As provided in this Agreement, the Agency shall undertake certain public actions pursuant to the Act and as implementation of the Plan, including making the Project Site available for redevelopment and assistance in obtaining such approvals by governmental authorities as are necessary for development of the Project.

(c) As provided in this Agreement, the Developer shall carry out the redevelopment of the Project Site by obtaining approvals by governmental authorities necessary for development of the Project as more particularly described in Section 3.04 hereof, obtaining the Project Financing, purchasing the Project Site from the Agency, constructing various private improvements on the Project Site, and causing the Project to be developed as described herein.

2.02. Developer's Proposal.

(a) The Proposal for the redevelopment of the Project Site, specifically including the acquisition of the Project Site by the Developer from the Agency and the design, construction, equipping, completion and use of the Project, and each component thereof, is hereby found by the Agency and acknowledged by the Developer: (1) to be consistent with and in furtherance of the objectives of the Plan, (2) to conform to the provisions of the Act, (3) to be responsive to the RFP, (4) to be in the best interests of the citizens of the City, (5) to further the purposes and objectives of the Agency, and (6) to further the public purpose of eradicating conditions of blight in the Area. The parties recognize and agree that during the process of review and approval provided for in the Agreement the design of the Project may be subject to change and modification as may be either agreed to by the parties or required as provided herein or by the appropriate regulatory authority, and should any changes be necessary or desirable the parties agree that they will act expeditiously and reasonably in reviewing and approving or disapproving any changes or modifications to the Project.

(b) Based upon and as a result of the findings set forth in subsection (a) above, the Proposal, including such changes and revisions as are provided by this Agreement, is hereby affirmed by the Developer and approved and accepted by the Agency.

(c) The parties hereto find that the terms and conditions set forth in this Agreement do not, individually or collectively, constitute a substantial deviation from the RFP or the Proposal.

2.03. Cooperation of the Parties. The parties hereto recognize that the successful development of the Project and each component thereof is dependent upon continued cooperation of the parties hereto, and each agrees that it shall act in a reasonable manner hereunder, provide the other party with complete and updated information from time to time with respect to the conditions such party is responsible for satisfying hereunder and make its good faith reasonable effort to ensure that such cooperation is continuous, the purposes of this Agreement are carried out to the full extent contemplated hereby and the Project is designed, constructed, equipped, completed and operated as provided herein.

2.04. Authorized Representative.

(a) Each party shall designate an Authorized Representative to act on its behalf to the extent of the grant of any authority to such representative. Written notice of the designation of such a representative (and any subsequent change in the Authorized Representative) shall be given by the designating party to the other party in writing in accordance with the procedure set forth in Section 15.03 hereof.

(b) Except as otherwise expressly provided in this Agreement, whenever approval or action by the Developer or the Agency is required by this Agreement, such action or approval may, in the discretion of the party considering such approval or action, be taken or given by the Authorized Representative thereof. A party to this Agreement may rely upon the representation of the other party's Authorized Representative that such person has the requisite authority to give the approval or take the action being done by that Authorized Representative. A party may not later deny that its Authorized Representative had the authority represented to and relied upon by the other party or revoke or deny any action taken by such Authorized Representative which was relied upon by the other party.

(c) The Developer does hereby notify the Agency that its initial Authorized Representative for the Project is Peter Leach, its Vice-President.

(d) The Agency does hereby notify the Developer that its initial Authorized Representative is Amanda Thompson, its Executive Director.

ARTICLE 3. LAND USE REGULATION AND RESTRICTIONS ON USE.

3.01. Zoning. On the Effective Date, the zoning classification for the Project Site is Downtown, abbreviated as "D."

3.02. Redevelopment Plan. The Agency represents to the Developer and the Developer acknowledges that as of the date of the RFP and the Proposal the provisions of the Plan pertaining to the Project Site are consistent with the Project as contemplated by the Proposal.

3.03. Permits.

(a) The Developer has prepared and submitted to the Executive Director of the Agency and the Agency has approved, floor plans, site plans, and building façade plans for the Project used for Developer's Application for Site Plan Approval.

(b) On March 4, 2021 the Developer submitted to the appropriate governmental authorities, including the City's Planning and Development Department ("Planning Department"), a complete and sufficient application for Level I Flexible Standard Development Application to allow development of the Project in accordance with the Project Plans and Specifications ("Application"), and shall bear all costs of preparing such applications, applying for and obtaining the Building Permits and Permits including applicable application, inspection, regulatory and Impact Fees or charges pertaining to the Project, including, but not limited to, any Building Permits or Permits, review, application, inspection, regulatory or impact fees.

(c) The Agency, as the property owner, shall cooperate with the Developer in making the Application, and the Agency shall cooperate with the Developer in obtaining all necessary Permits and the Building Permits required for the construction and completion of the Project.

(d) The Agency's duties, obligations, or responsibilities under any section of this Agreement, specifically including but not limited to this Section 3.04, do not affect the Agency's or the City's right, duty, obligation, authority and power to act in its governmental or regulatory capacity in accordance with applicable laws, ordinances, codes or other building or project regulation. The parties acknowledge that the Planning Department is an independent entity which is not a party to this Agreement and will render its independent decision concerning the Application and that therefore the Executive Director's preliminary approval given pursuant to Section 3.03(a) is not binding on the Planning Department.

(e) Notwithstanding any other provisions of this Agreement, any required permitting, licensing or other regulatory approvals by the Agency or the City shall be subject to the established procedures and requirements of the Agency or the City with respect to review and permitting of a project of a similar or comparable nature, size and scope. In no event shall the Agency or the City, due to any provision of this Agreement, be obligated to take any action concerning regulatory approvals except through its established processes and in accordance with applicable provisions of law.

3.04. Concurrency.

(a) The parties hereto recognize and acknowledge that Florida law (specifically, Part II, Chapter 163, Florida Statutes) imposes restrictions on development if adequate public improvements are not available concurrently with that development to absorb and handle the demand on public services caused by that development. The City has created and implemented a system for monitoring the effects of development on public services within the City. The Developer recognizes and acknowledges it must satisfy the concurrency requirements of Florida law as applied to the Project. Specifically, the Developer covenants and agrees to comply with the City's land development code, including providing to the City any and all data and analysis that shows the Project will be consistent with the goals, objectives and policies of the comprehensive plan for the City, adopted by the City and in effect on the Effective Date, and the Developer further covenants and agrees to comply with concurrency certification provisions of the City's land development code.

(b) The Agency represents and warrants and the Developer acknowledges that as of the Effective Date the Project as contemplated by this Agreement does not require any reservation of capacity or to seek any approvals as a result of the concurrency requirements described in subsection (a). If legally obligated in the future to comply with such requirements, the Developer agrees to seek issuance of a concurrency compliance certificate or other similar document by whatever name known and a reservation of services capacity under the City's concurrency management system, and does further agree to maintain such certificate and reservation. The Developer covenants and agrees with the Agency to not undertake any action or fail to take any action, which would cause the City to revoke or invalidate the concurrency compliance certificate or the reservation of services capacity.

3.05. Not a Development Order or Permit. The parties do hereby acknowledge, agree and represent that this Agreement is not intended to be and should not be construed or deemed to be a "development order" or "development permit" within the meaning of those terms in Section 163.3164, Florida Statutes.

3.06. Permitted Uses.

(a) The Project shall consist of no fewer than 173-unit apartment development on the Project Site, composed of 18 units at 80% Area Median Income ("AMI") or less; 49 units at 100% AMI or less; and 106 units at 120% AMI or less that includes 275 parking units, with a minimum of 40 parking spaces dedicated to the public, as contemplated by the Narrative and Vision Statement of the Proposal.

(b) The CRA's investment in the construction of public parking is to support ground floor restaurant and retail operations within a half mile of this site. Public parking should be provided at a cost that allows the operator to maintain and operate the parking. It is not intended to be a significant source of revenue for the developer. The operations and use of the public parking shall be further defined in an agreement between the developer, the City, and the Agency prior to issuance of a Certificate of Occupancy.

(c) The following uses are prohibited:

(1) Any use that is not in substantial conformity with the Narrative and Vision Statement of the Proposal.

(d) Developer or any person or entity proposing to use the Project Site for a use not consistent with this Section 3.06, shall file with the Agency a request for a release of part or all of the restrictions imposed by this section. Within thirty days of receipt of such a request, the Agency shall consider such request and either deny the request, approve the request as filed, or approve the request subject to such terms, conditions and limitations as the Agency may require. Any such release of a restriction shall be evidenced by an amendment to this Development Agreement executed by Agency and the Developer and recorded in the public records of Pinellas County, Florida, the cost of which recording shall be paid by Developer. Nothing in this Section 3.07 is intended to effect or override any law, ordinance, regulation or other legal restriction set forth in this Agreement.

ARTICLE 4. PROJECT PLANS AND SPECIFICATIONS.

4.01. Site Plan.

(a) The Developer's final Site Plan approval, as approved by the Planning Department, shall be the final development of the Project. The Developer agrees that during the term of this Agreement any material changes to the approved Site Plan or any subsequent versions of the Site Plan will be submitted to the Agency for approval.

(b) The Developer's Application for Site Plan Approval as approved by the Agency shall be the basis for and incorporated into the Project Plans and Specifications.

4.02. Preparation of Project Plans and Specifications.

(a) The Developer shall prepare the Project Plans and Specifications in sufficient detail and description of the Project, graphically and narratively if requested, to allow the Agency the opportunity to determine if those plans and specifications are consistent with the Proposal, the Site Plan and the Plan.

(b) (1) The Developer is responsible for the cost of preparing, submitting and obtaining approval of the Project Plans and Specifications.

(2) The Developer has retained and shall retain the Project Professionals to prepare the Project Plans and Specifications and shall notify the Agency of the names of such Project Professionals and any subsequent changes thereto or additional Project Professionals retained with respect to the Project. The Developer shall cause the Project Professionals to prepare the Project Plans and Specifications.

(c) (1) The Agency does hereby consent to the preparation of the Project Plans and Specifications, and any revisions thereto, by the Project Professionals, and the Agency will not withhold approval of the Project Plans and Specifications because they were prepared by the Project Professionals. The Agency hereby acknowledges and agrees that the selection of the Project Professionals is the sole responsibility of, and within the sole discretion of, the Developer, and the Agency will not participate, and has not previously participated, in such selection by the Developer.

(2) The parties hereto mutually acknowledge and agree the Project Professionals are not, individually or collectively, agents or representatives, either expressed or implied, of the City or the Agency.

(d) The Agency and the Developer recognize and acknowledge the need for expedited review of the Project Plans and Specifications and approval by the Agency.

(e) The Project Plans and Specifications contemplated by this subsection (d) shall be sufficient for a determination by the City required by the ordinances and regulations of the City.

4.03. Coordination with City Review. The Developer has represented to the Agency and the Agency acknowledges the need to expedite the process for review of the Project Plans and Specifications and the issuance of any Building Permits and Permits. The Agency agrees to use its best efforts to coordinate and expedite its review of the Project Plans and Specifications with any review or approvals by the City or other governmental entities.

4.04. Agency Review of Project Plans and Specifications.

(a) During the term of this Agreement, the Agency's review and approval of the Project Plans and Specifications is a prerequisite for issuance of the initial Building Permit for construction of the Project, or any part thereof. Amanda Thompson, the Executive Director, is hereby delegated by the Agency to review and approve the Project Plans and Specifications for substantial compliance with the Site Plan.

(b) Upon the Developer receiving the Site Plan Approval from the Planning Department, the Agency agrees to diligently proceed with and complete its review of the Project Plans and Specifications to be submitted

for Building Permits and respond to the Developer as soon as reasonably possible after receipt thereof, but in no event later than fifteen (15) days after receipt of such Project Plans and Specifications, and advise the Developer in writing of the Agency's reasonable objections thereto or that the Project Plans and Specifications have been approved as submitted.

(c) If the Agency gives written notice of specific objections to or deficiencies in the Project Plans and Specifications as provided in subsection (b), then the Agency and the Developer shall expeditiously, diligently and reasonably negotiate to resolve such objections.

(d) If the Project Plans and Specifications submitted to the Agency by the Developer substantially comply with this Agreement, including being substantially in accordance with the Approved Site Plan, and further the purposes of the Plan, the Agency shall approve the Project Plans and Specifications as submitted, and shall notify the City and other pertinent governmental entities of such approval and recommend the City and such other pertinent governmental entities give such approvals and issue such Permits and Building Permits or licenses as are necessary for development of the Project.

(e) If the Developer does not dispute the objections to any proposed Project Plans and Specifications contained in any notice from the Agency, it shall submit revised Project Plans and Specifications satisfying such objections. Any changes in the Project Plans and Specifications made by the Developer in response to such a notice shall be made without charge to the Agency.

4.05 Project Schedule.

(a) On March 4, 2021 Developer submitted the Application as required by Section 3.03(b).

(b) Developer shall Commence Construction of the Project by October 18, 2021.

(c) Developer shall have substantially completed construction of the Project in accordance with Section 7.05 by May 31, 2023.

ARTICLE 5. PROJECT FINANCING.

5.01. Project Financing.

(a) If the Developer elects to obtain Construction Financing, the Developer shall use its reasonable efforts to obtain from each Lender a term sheet for provision of the Construction Financing as soon as is reasonably possible. Upon obtaining such Construction Financing, the Developer shall notify the Agency that it has obtained said financing and provide to the Agency the name and address of the Construction Financing Lender.

(b) If permitted by the terms of the construction financing, the Agency shall have an affirmative right, but not an obligation, to cure any default by the Developer under the Construction Financing. The parties recognize and acknowledge that the Agency's right under this paragraph (2) is not intended to be superior or ahead of any lien or right of any Lender to enforce its rights and remedies under the financing documents pertaining to the Project Financing.

(c) The Developer covenants and agrees with the Agency that the proceeds of the Construction Financing shall be solely for the purpose of paying costs and fees related to the development and construction of the Project and that such proceeds, together with its own funds or other funds available to it from capital sources shall be sufficient to pay the costs of acquiring the Project Site and the development, construction and completion of the Project.

(d) The Agency recognizes and agrees that the Construction and Permanent lender ("Lender") shall require the Agency to subordinate its interests to the rights and interests of the Lender under the terms of the Lender's loan agreements including the Lender's first mortgage.

5.02. Notice of Developer's Default Under Construction Loan.

(a) The Developer covenants and agrees with the Agency that Developer shall notify the Agency in writing within 5 days of Developer receiving notice that Construction Lender declares the Developer to be in default or if an event of default has occurred under the financing documents for the Construction Financing. The notice from the Developer to the Agency shall state the basis of the default by the Developer, shall identify the particular provision of the financing documents under which the Developer is in default and shall include copies of any pleadings in any proceeding instituted by the Construction Lender incident thereto.

(b) Any notice from the Agency to the Developer specifying an event of default by the Developer under Section 12.01 hereof shall, at the same time it is provided to the Developer, be mailed by the Agency to any Construction Lender by certified mail, return receipt requested, at its address last given to the Agency by the Developer prior to such notice; provided, however, the failure of the Agency to mail any such notice or the Construction Lender to receive any such notice shall not constitute a material breach or default of this Agreement by the Agency, nor shall it constitute a waiver by or preclude or delay the Agency from proceeding with or enforcing any right or remedy available to it under this Agreement. The notice from the Agency to the Construction Lender shall state the basis of the default, the particular provision of this Agreement under which the Developer is in default and shall include copies of any pleadings in any proceedings instituted by the Agency incident thereto.

5.03. Cure of Developer's Construction Loan Default by Lender.

(a) (1) Following the Agency providing the notice under Subsection 5.02(b) hereof, the Construction Lender may, at its election, cure or remedy the default by the Developer described in such notice. If the Construction Lender elects to cure such default, it shall give notice of such election to the Agency and the Developer within sixty (60) days after the Agency issued its notice of default by the Developer as provided in Section 12.01 hereof.

(2) So long as the Construction Lender proceeds to cure or remedy the Developer's default of this Agreement, the Agency agrees not to exercise any right or remedy available to it resulting from the Developer's default described in the notice and which the Construction Lender has elected to cure for such period of time as shall be reasonably necessary for the Construction Lender to cure or remedy such default, including any time reasonably necessary for the Construction Lender to obtain possession of the Project Site, if possession is necessary to enable the Construction Lender to cure or remedy such default.

(b) If a default by the Developer under this Agreement is timely cured or remedied by the Construction Lender pursuant to this Section 5.03, then the Agency shall not have any rights or remedies against the Developer with regard to such default.

(c) If the Construction Lender elects to cure or remedy the Developer's default hereunder as provided in subsection (a) hereof, it shall then be subject to and bound by the provisions of this Agreement and the actions required to be taken to remedy or cure said default that, but for the default by the Developer, would have been applicable to the Developer.

(d) If, as a result of the Construction Lender curing or remedying a default by the Developer under this Agreement, the Construction Lender completes the construction of the Project upon receipt of a written request by the Construction Lender to the Agency for a construction Completion Certificate, the Agency shall execute and deliver to the Construction Lender a construction Completion Certificate for the Project, in the same manner and procedure as if the Developer has requested such a certificate under Section 7.05 hereof.

(e) Subsequent to a default under this Agreement by the Developer, if the Construction Lender does not timely elect to cure such default as provided in subsection (a) hereof, or makes such election and proceeds to construct and complete the Project, but fails to complete such construction by the Completion Date (subject to extensions for Unavoidable Delays) and such failure shall not have been cured within sixty (60) days (or such longer period as may be reasonably necessary and mutually agreed upon by the Agency and the Construction Lender), then the Agency may proceed with any remedies available to it under Section 12.01 hereof.

5.04. Construction Lender Not Obligated to Construct.

(a) If the Construction Lender elects not to cure a default by the Developer hereunder as provided in Subsection 5.03(a) hereof, the Construction Lender and any other holder who obtains title to or possession of the Project Site, or any part thereof, as a result of foreclosure proceedings or any other action in lieu thereof, including (i) any other party who thereafter obtains title to the Project Site or such part from and through such holder or, (ii) any other purchaser at a foreclosure sale, or (iii) any other grantee under a deed in lieu of foreclosure, and any of such parties' successors and assigns, shall not be obligated by this Agreement to construct or complete the Project, or to guarantee such construction or completion or to perform any of the Developer's other agreements, obligations or covenants under this Agreement.

(b) Nothing in this Section 5.04 or any other provisions of this Agreement shall be deemed or construed to permit or authorize any Construction Lender or any other party obtaining title to or possession of the Project Site, or any part thereof, to devote the Project Site, or any part thereof, to any use, or to construct any improvements thereon, other than the uses and improvements provided in the Plan and in the Project Plans and Specifications, unless prior to commencement of such use, approval thereof is obtained from the Agency, which approval shall not be unreasonably withheld or delayed.

5.05. Agency Cures Developer's Default. If prior to the issuance of the Project Completion Certificate, the Developer defaults under this Agreement or under, and to the holder of, any mortgage or other instrument creating an encumbrance or lien upon the Project Site, or any part thereof, if permitted by the terms of the Construction Financing, the Agency may cure such default or breach. In such an event, the Agency, as the case may be, shall be entitled, in addition to and without limitation upon any other rights or remedies or payment of any other amounts to which it shall be entitled by this Agreement, operation of law, or otherwise, to reimbursement from the Developer for all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Agency in curing such default, together with interest thereon at a per annum rate equal to twelve percent (12%) until such amount is paid. The Agency shall have a lien on the Project Site for the amount of such reimbursement; provided, that any such lien shall be subject and subordinate to the lien of any then existing mortgage of the Project Site in favor of the Construction Lender. The Agency shall, if requested by Developer or the Construction Lender, execute and deliver to Construction Lender an agreement in recordable form subordinating the Agency's lien to the lien of the Construction Lender.

5.06. Permanent Loan Lender Defaults.

(a) The Developer covenants and agrees with the Agency that Developer shall notify the Agency in writing within 5 days of Developer receiving notice that Permanent Lender declares the Developer to be in default or if an event of default has occurred under the financing documents for the Permanent Financing. The notice from the Developer to the Agency shall state the basis of the default by the Developer, shall identify the particular provision of the financing documents under which the Developer is in default and shall include copies of any pleadings in any proceeding instituted by the Permanent Lender incident thereto.

(b) Any notice from the Agency to the Developer specifying an event of default by the Developer under Section 12.01 hereof shall, at the same time it is provided to the Developer, be mailed by the Agency to any Permanent Lender by certified mail, return receipt requested, at its address last given to the Agency by the Developer prior to such notice; provided, however, the failure of the Agency to mail any such notice or the Permanent Lender to receive any such notice shall not constitute a material breach or default of this Agreement by the Agency, nor shall it constitute a waiver by or preclude or delay the Agency from proceeding with or enforcing any right or remedy available to it under this Agreement. The notice from the Agency to the Permanent Lender shall state the basis of the default, the particular provision of this Agreement under which the Developer is in default and shall include copies of any pleadings in any proceedings instituted by the Agency incident thereto.

5.07. Cure of Developer's Permanent Loan Default by Lender.

(a) (1) Following the Agency providing the notice under Subsection 5.05(b) hereof, the Permanent Lender may, at its election, cure or remedy the default by the Developer described in such notice. If the Permanent Lender elects to cure such default, it shall give notice of such election to the Agency and the

Developer within sixty (60) days after the Agency issued its notice of default by the Developer as provided in Section 12.01 hereof.

(2) So long as the Permanent Lender proceeds to cure or remedy the Developer's default of this Agreement, the Agency agrees not to exercise any right or remedy available to it resulting from the Developer's default described in the notice and which the Permanent Lender has elected to cure for such period of time as shall be reasonably necessary for the Permanent Lender to cure or remedy such default, including any time reasonably necessary for the Permanent Lender to obtain possession of the Project Site, if possession is necessary to enable the Permanent Lender to cure or remedy such default.

(b) If a default by the Developer under this Agreement is timely cured or remedied by the Permanent Lender pursuant to this Section 5.03, then the Agency shall not have any rights or remedies against the Developer with regard to such default.

(c) If the Permanent Lender elects to cure or remedy the Developer's default hereunder as provided in subsection (a) hereof, it shall then be subject to and bound by the provisions of this Agreement and the actions required to be taken to remedy or cure said default that, but for the default by the Developer, would have been applicable to the Developer.

5.08. Agency Cures Developer's Default of Permanent Loan. If defaults under this Agreement or under, and to the holder of, any mortgage or other instrument creating an encumbrance or lien upon the Project Site including the Permanent Loan, or any part thereof, if permitted by the terms of the Permanent Loan, the Agency may cure such default or breach. In such an event, the Agency, as the case may be, shall be entitled, in addition to and without limitation upon any other rights or remedies or payment of any other amounts to which it shall be entitled by this Agreement, operation of law, or otherwise, to reimbursement from the Developer for all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Agency in curing such default, together with interest thereon at a per annum rate equal to twelve percent (12%) until such amount is paid. The Agency shall have a lien on the Project Site for the amount of such reimbursement; provided, that any such lien shall be subject and subordinate to the lien of any then existing mortgage of the Project Site in favor of the Permanent Lender. The Agency shall, if requested by Developer or the Permanent Lender, execute and deliver to Permanent Lender an agreement in recordable form subordinating the Agency's lien to the lien of the Permanent Lender.

ARTICLE 6. PROJECT SITE CONVEYANCE.

6.01. Findings; Representations.

(a) The Agency is the owner of the Project Site.

(b) Developer desires to purchase from Agency and Agency desires to sell to Developer the Project Site, subject to the assignability provision of Section 6.20.

6.02. Agreement to Sell and Purchase.

The Agency hereby agrees to sell and convey the Project Site to Developer and Developer hereby agrees to purchase the Project Site from Agency, upon the terms and conditions set forth in this Article 6.

6.03. Purchase Price.

The Developer shall pay to the Agency as the purchase price for the Project Site the sum of Three Million Four Hundred Sixty Thousand and 00/100 Dollars (\$3,460,000.00). The Agency agrees that the full purchase price will be available to the Developer as a source of funds for the development of the Project as contemplated by the Narrative and Vision Statement of the Proposal. The funds will be available to the Developer on a monthly drawdown basis of One Hundred Eighty-Two Thousand One Hundred Five and 26/100 Dollars (\$182,105.26) starting November 1, 2021 and continuing through May 1, 2023; provided, however, that the Developer shall furnish monthly construction expense reports to the Agency. In the event there are no monthly expense reports

then the Developer will not be entitled to its monthly drawdown. The Developer may propose, and the Agency may accept, a different financial drawdown provided, however, that no drawdown will commence before November 1, 2021 and that no drawdown would be greater than the aggregate drawdown the Developer would otherwise be entitled to under this Section 6.03.

Additionally, the Agency will allocate an additional amount not to exceed Eight Hundred Thousand and 00/100 Dollars (\$800,000.00) to be used solely towards the construction of the public parking spaces contemplated in the Narrative and Vision Statement of the Proposal and this Agreement.

6.04. Site Evaluation.

(a) From and after the Effective Date hereof during the term of this Agreement, the Developer and its agents and representatives shall be entitled to enter upon the Project Site for inspection, soil tests, examination, and such other matters and investigations as Developer deems necessary and appropriate. In this regard, no such examination will be deemed to constitute a waiver or a relinquishment on the part of Developer of its right to rely on the covenants, representations, warranties and agreements made by Agency or upon the agreements provided to Developer by Agency. Developer will restore any disturbance to the Project Site caused by its acts and will hold Agency harmless and indemnify Agency from and against any and all damages and liability occasioned by any claim asserted against Agency caused by such examination, excluding all damages and liability as a result of (i) a pre-existing condition on the Project Site, or (ii) the negligence and willful misconduct of the Agency.

(b) Notwithstanding any other provision of this Agreement, in the event Developer does not receive approval of the Project after diligent effort and compliance with the timelines for submittal set forth herein and the procedural requirements of the City for submitting plans and specifications for approval to the City, Developer shall be entitled to terminate this Agreement as provided in Section 12.05 hereof.

(c) Notwithstanding any other provision of this Agreement, in the event Developer is unable to obtain financing on commercially reasonable terms prior to the Closing Date, Developer may elect to terminate this Agreement as provided in Section 12.05.

6.05. Title.

(a) Within six (6) months after the Effective Date, the Agency shall furnish to Developer, at the Developer's expense, a commitment for the issuance of an owner's policy of title insurance for the Project Site in the standard form adopted by the American Land Title Association, at no more than the promulgated rate, accompanied by one copy of all documents affecting the Project Site which constitute exceptions to the commitment. This commitment shall be in the amount of the total Purchase Price of the Project Site, shall show in Agency or the City, a good and marketable title in fee simple, free and clear of all liens and encumbrances without exception other than those permitted under the provisions of Section 6.13 hereof (the "Permitted Exceptions") in a form reasonably acceptable to Developer and shall be referred to hereinafter as the "Title Commitment".

(b) If the Title Commitment, any update thereof or subsequent title commitment or the survey delivered to Developer in connection with the Project Site shows that the title is defective or unmarketable or that any part of the Project Site is subject to liens, restrictions, easements, encroachments or encumbrances of any nature whatsoever other than the Permitted Exceptions, Developer shall give Agency a reasonable time (not to exceed sixty (60) days after Developer has given written notice to Agency of any unacceptable conditions of title) within which to remedy or remove any such unacceptable conditions of title. Failure of Agency to remedy or remove any such unacceptable condition of title shall constitute grounds for termination as provided in Section 12.05, unless Developer gives Agency its written waiver of such unacceptable condition of title.

(c) Within thirty (30) days after closing, Agency shall furnish to Developer, at the Developer's expense, a standard ALTA Form 2006 owner's policy of title insurance based on the Title Commitment. Such policy will be issued by the title company that issued the Title Commitment, will be in the amount of the Purchase Price and will insure Developer's fee simple title, as the case may be, to the Project Site subject to no exceptions other than the Permitted Exceptions. Agency shall pay the premium charged for the issuance of any owner's

policy of title insurance to the extent of the Purchase Price showing Developer as the fee simple owner of the Project Site.

6.06. Survey.

(a) The Developer shall employ a surveyor licensed by the State of Florida to prepare a current survey of the Project Site within 90 days of the execution of this Agreement.

(b) The survey shall:

(1) Include the sealed Survey Certification attached hereto as Exhibit "F" for the Project Site.

(2) Set forth an accurate metes and bounds description of the Project Site, which metes and bounds description shall be used for the purposes of conveying the Project Site to Developer hereunder, and the gross number of acres contained in the Project Site.

(3) Locate all existing easements and rights of way, whether recorded or visible (setting forth the book and page number of the recorded instruments creating the easement).

(4) Show any encroachments onto the Project Site from adjoining property and any encroachments from the Project Site onto adjoining property.

(5) Show all existing improvements (such as buildings, power lines, fences, roads, driveways, railroads, underground pipelines, cables, etc.) and all rivers, creeks, drainage ditches or other water courses.

(6) Show all dedicated public streets providing access to the Project Site and whether such access is paved to the property line of the Project Site.

(7) Identify any flood zones as defined on Federal Flood Insurance Rate Maps (F.I.R.M.) for Pinellas County, Florida that affect the Project Site.

(8) Show all applicable set back lines with reference to the source of the set backs.

In the event the survey shows any encroachments of any improvement upon, from or onto the Project Site or shows any other matter of survey which is objectionable to Developer, in Developer's sole discretion, then Developer shall provide Agency with notice of such defect and the same shall be deemed a title defect and shall be treated as an objection to title by Developer as provided under Section 6.05(b).

6.07. Rights and Duties of Agency.

(a) Agency shall cooperate in good faith with Developer in Developer's evaluation of the Project Site and shall execute all documents or perform such other acts, reasonably necessary to enable Developer to satisfactorily complete its evaluation of the Project Site and shall provide to Developer and its consultants any information or documents reasonably required by Developer and in Agency's or its consultant's possession which would assist Developer in such evaluation and preparation.

(b) Agency shall reaffirm in writing to Developer that the covenants, warranties and representations set forth herein are true and correct as of the Closing Date.

6.08 Rights and Duties of Developer. Developer agrees to timely commence and pursue its evaluation of the Project Site hereunder in good faith; provided, however, at any time, Developer may cease such evaluations and terminate this Agreement as provided in Section 6.04(b).

6.09. Conditions to Closing.

(a) The obligation of Developer to purchase the Project Site is subject to the following ("Conditions to Closing") unless waived by the Developer on or before the Closing Date:

(1) Developer's purchase of the Project Site is contingent upon Developer obtaining approval of the Application, resulting in a site plan approval of the Project for no fewer than 173-unit apartment development units to be located on the Project Site, composed of 18 units at 80% Area Median Income ("AMI") or less; 49 units at 100% AMI or less; and 106 units at 120% AMI or less that includes 275 parking units, with a minimum of 40 parking spaces dedicated to the public, as contemplated by the Narrative and Vision Statement of the Proposal and this Agreement and the operations and management agreement defined in Section 3.06(b), and constructed substantially in accordance with the Project Plans and Specifications.

(2) The representations and warranties of Agency set forth herein being true on and as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of the Closing Date.

(3) The Project shall be in compliance with the zoning, land use and concurrency requirements for the Project for no fewer than 173-unit apartment development units to be located on the Project Site, composed of 18 units at 80% Area Median Income ("AMI") or less; 49 units at 100% AMI or less; and 106 units at 120% AMI or less that includes 275 parking units, with a minimum of 40 parking spaces dedicated to the public, as contemplated by the Narrative and Vision Statement of the Proposal and this Agreement.

(4) Developer obtaining financing for construction of the Project on commercially reasonable terms.

(5) Developer obtaining government financing for construction of the Project, including \$3,460,000.00 from Pinellas County for the purchase of the Project Site; \$2,200,000.00 from Pinellas County in Pinellas Penny IV Economic Grant monies; and \$880,000.00 from the City in City HOME loan monies.

(6) Developer obtaining a 99-year land lease with Pinellas County on terms acceptable to the Agency should the Developer elect the assignability provision of Section 6.20.

(7) Developer is unable to obtain an assurance reasonably acceptable to Developer and its Lender that the initial fully assessed Property Tax will not exceed \$207,600 per unit (173 units X \$1,200) with a reasonable expectation that Property Taxes in later years will not exceed 1.03 times the preceding Property Tax year by May 15, 2021 the Developer shall have the right to terminate this Agreement.

In the event the Conditions to Closing are not satisfied on or before the Closing Date, as hereinafter defined, Developer may terminate this Agreement as set forth in Section 12.05 or may, at Developer's option, extend the Closing Date for three (3) months to permit the Agency to satisfy the Conditions to Closing that are within the Agency's control.

(b) The obligation of the Agency to convey the Project Site to the Developer is subject to the following unless waived by the Agency on or before the Closing Date:

(1) The representations and warranties of the Developer set forth in Section 10.01 being true on and as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of the Closing Date.

(2) The Developer is not then in default of this Agreement as provided in Section 12.01.

(3) The Agency shall have approved the Project Plans and Specifications.

(4) The City shall have approved the Site Plan for the Project for no fewer than 171-unit apartment development units to be located on the Project Site, composed of 18 units at 80% Area Median Income ("AMI") or less; 49 units at 100% AMI or less; and 104 units at 120% AMI or less that includes 260 parking units, with a minimum of 40 parking spaces dedicated to the public, as contemplated by the Narrative and Vision Statement of the Proposal and this Agreement, and constructed substantially in accordance with the Project Plans and Specifications.

6.10 Closing. Provided all conditions to conveyance of the Project Site to the Developer have been satisfied, Developer shall purchase the Project Site on or before the date which is 30 days after issuance of all Building Permits (herein referred to as the "Closing Date"). The parties may mutually agree to change the Closing Date, provided however that in no instance shall the Closing Date occur later than October 18, 2021.

6.11. Closing Procedure.

(a) At closing, the Agency shall convey to Developer by special warranty deed, in the form attached hereto as Exhibit "C", title in fee simple to the Project Site, free and clear of any and all liens, encumbrances, conditions, easements, assessments, restrictions except those permitted in this Agreement and the Permitted Exceptions.

(b) At closing, the Agency shall execute and deliver to Developer and Title Company an Affidavit of No Liens in a form satisfactory to Title Company and Developer, so as to cause Title Company to remove the "gap," unrecorded easements and other standard exceptions from the Title Commitment including the construction liens and parties in possession.

(c) At closing, the Agency shall deliver to Title Company and Developer a certified copy of the organic document (e.g., the ordinances and resolutions) and all amendments thereto, that legally formed Agency and/or pursuant to which Agency holds title to the Project Site, along with evidence satisfactory to Title Company of Agency's authority to execute and deliver the documents necessary or advisable to consummate the transaction contemplated hereby.

(d) At closing, the Agency shall deliver an endorsement to the Title Commitment required herein and such further instruments as may be required by Developer, Developer's counsel or the Title Company to vest in Developer title of the Project Site as provided herein, all at Agency's expense.

(e) Developer shall pay the Purchase Price for the Project Site to Agency as provided in Section 6.03.

(f) The Project Site is currently exempt from ad valorem real estate taxes. Commencing on the Closing Date, Developer shall be responsible for all ad valorem real estate taxes on the Project Site and any personal property taxes.

(g) Agency shall pay all special assessments and taxes, interest and penalties levied against the Project Site prior to the Closing Date.

(h) Agency has terminated all original leases, if any, for the Project Site or any part thereof and all tenants will have vacated the Project Site by the Closing Date.

(i) Agency shall deliver to Developer all original documents pertaining to the Project Site including licenses and permits, if any.

(j) The Developer shall pay for all documentary stamps and transfer taxes, if any, for the deed, and for the preparation, recording and documentary stamps for all closing documents, lien releases and title curative instruments, its own attorney's fees, the premiums for the owner's title insurance policy, and for recording the deed and all other closing costs and expenses.

(k) Closing shall be conducted at a closing company selected by the Agency.

6.12. Possession. Possession of the Project Site shall pass to Developer upon completion of the closing.

6.13. Condition of Title.

Title to the Project Site at the time of conveyance shall be free of all liens, restrictions, easements, encroachments and encumbrances of any nature whatsoever except the following (the "Permitted

Exceptions"):

- (a) Real estate taxes for the year of closing and subsequent years that are a lien but not yet due and payable.
- (b) Comprehensive land use planning, zoning and building ordinances, regulations and requirements adopted by governmental or municipal authority having jurisdiction.
- (c) Those additional exceptions as contained in the Title Commitment to be delivered by Agency to Developer at closing which Developer, in its sole and absolute discretion, has elected to accept.

6.14. Taxes and Assessments. Developer agrees to pay all taxes and assessments that become a lien on the Project Site prior to the Closing Date promptly when due. All special assessments applicable to any portion of the Project Site, delinquent taxes and delinquent installment of special assessments, together with any penalties and interest thereon, shall be paid by Developer on or before the Closing Date.

6.15. Covenants, Warranties and Representations.

Agency hereby covenants, warrants and represents to Developer that:

- (a) The title of Agency to the Project Site hereby sold is absolute, good and marketable and free and clear of all liens and encumbrances except for the Permitted Exceptions.
- (b) Agency will have the full legal power to own and convey the Project Site as provided for herein, following conveyance to the Agency of that portion of the property owned by the City.
- (c) There are no legal proceedings pending, threatened or contemplated against Agency or the City in any court, tribunal or administrative agency which affect the Project Site or which give or will give rise to any claims or liens against the Project Site or affect Agency's right to transfer the Project Site.
- (d) There are no rights of possession, use, rights of first refusal or otherwise to the Project Site outstanding in third persons by reason of unrecorded leases, land contracts, sale contracts, options or other documents.
- (e) No work has been performed or is in progress on or at the Project Site and no materials have been furnished to Agency or the Project Site or any portion thereof which after closing could give rise to any mechanics', materialmen, or other liens, and at the closing, Agency shall furnish to Developer an affidavit attesting to the absence of any such liens or rights to liens.
- (f) No assessment for public improvements or otherwise has been made against the Project Site which remain unpaid, including without limitation, any special assessments or those for construction of water, sewer, gas and electric lines, nor have any been proposed.
- (g) Agency has no information or knowledge of any change contemplated in the applicable laws, ordinances or restrictions, or any judicial or administrative action, or any action by adjacent land owners or natural or artificial conditions upon the Project Site which would prevent, limit, impede or make more costly the present or proposed use of the Project Site, provided, however, the City is in the process of adopting amendments to the land development code, but, if adopted, it will not adversely affect the proposed use or contemplated development of the Project Site.
- (h) From and after the date hereof, Agency shall refrain from (1) making any material changes on or about the Project Site; (2) creating and incurring or permitting to exist any mortgage, lien, pledge or other encumbrance in any way affecting the Project Site; or (3) committing any waste or nuisance on the Project Site.
- (i) From and after the date hereof, and at any time prior to transfer of title to Developer, Agency shall not grant, sell or convey any interest in the Project Site, including easements or rights of way, to any person, corporation (public or private), governmental body or political subdivision without the written permission of Developer.

(j) (1) Compliance with Environmental Law. Agency has: (i) materially complied with all applicable Environmental Law; and (ii) not received any notice of alleged outstanding violation of Environmental Law, nor does Agency have knowledge of any facts or circumstances that could constitute such a violation. To the best of Agency's knowledge, there are no Hazardous Substances on, above, within, underneath or in groundwater underlying the Property which exceed applicable standards under any Environmental Law, other than the contaminants described in the Phase II ESA.

(2) Definitions. For purposes of this Article 7, the terms in this paragraph (2) shall have the following meanings:

(i) "Hazardous Substances" means any substance or material: (a) identified in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601, as the same may be amended from time to time; or (b) determined to be toxic, a pollutant or contaminant, under Federal, state or local statute, law, ordinance, rule or regulation or judicial or administrative order or decision, as same may be amended from time to time, including but not limited to (i) hazardous wastes as identified pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq., as the same may be amended from time to time, or (ii) pollutants, petroleum and petroleum products as defined in either Chapter 403 or Chapter 376, Florida Statutes, as the same may be amended from time to time.

(ii) "Environmental Law" means any Federal, state or local statutory or common law relating to pollution or protection of the environment, including without limitation, any common law of nuisance or trespass, and any law or regulation relating to emissions, discharges, releases or threatened releases of Hazardous Substances into the environment (including without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances.

(k) Agency has no knowledge of any adverse fact relating to the physical condition of the Project Site or any portion thereof which has not been specifically disclosed in writing to Developer, including without limitation landfills, hazardous wastes, fault lines, sinkholes or other geological conditions or adverse soil conditions.

(l) Agency has no knowledge that any commitments have been made to any governmental authority, utility company, school board, church or other religious body, homeowners' association, or any other organization, group or individual relating to the Project Site which would impose an obligation upon Developer or its successors or assigns to make any contributions or dedications of money or land or to construct, install or maintain any improvements of a public or private nature on or off the Project Site.

(m) There are no facts known to Agency materially affecting the value of the Project Site which are not readily observable by Developer or which have not been disclosed to Developer or identified by Developer in its site investigation.

(n) There exists no violation of any requirement or condition to current zoning or land use classifications applicable to the Project Site.

(o) The Project Site is not included in any national, state, county or municipal historic registry or similar classification, nor does the Project Site include any historical or archeological artifacts.

(p) The Agency has full power and authority to enter into this Agreement and consummate the transactions contemplated hereby and neither this Agreement nor the consummation of the transactions contemplated hereby will constitute a violation of any order, rule, regulation, agreement or instrument or any charter or organizational documents to which the Agency is subject. No further approvals or consents by third parties or governmental bodies are required in order for the Agency to enter into this Agreement and consummate the transactions contemplated hereby.

(q) The covenants, representations and warranties of the Agency as contained herein shall be true and

correct as of the Closing Date and shall survive the closing of this transaction.

6.16. Condemnation. In the event that prior to the Closing Date, all or any portion of the Project Site or any rights or easements therein shall be taken by condemnation or rights of eminent domain or like process, or shall be threatened therewith, and the same, in Developer's reasonable opinion, would have a materially adverse impact upon Developer's use of the Project Site, Developer shall, within fifteen (15) days after having received notice thereof from Agency, elect in writing to either (a) continue this Agreement in full force and effect, notwithstanding such taking or threatened taking, in which case Developer shall be required to continue the purchase of the Project Site, in which event Agency shall assign or pay to Developer the applicable portion of the proceeds payable under such condemnation proceedings, (b) delete the portion of the Project Site condemned or threatened to be condemned from this Agreement, with a proportionate reduction in the Purchase Price, or (c) terminate this Agreement.

6.17. Real Estate Commission. Developer and Agency represent that they have not used any brokerage services with respect to the conveyance of the Project Site to the Developer as herein contemplated. The Agency and the Developer shall each hold the other harmless and indemnify the other party, its respective successors, assigns, employees, directors and agents from any and all costs, damages, liabilities and expenses, including reasonable attorney's fees, incurred by reason of any claim for fee or commission of any kind based on the sale contemplated herein.

6.18. Maintenance of Project Site. Prior and up to the Closing Date during its continued possession, the Agency shall maintain the Project Site in good order.

6.19. Radon Gas Notice.

(a) As required by Section 404.056(5), Florida Statutes, the following notice is hereby given to the Developer as the prospective purchaser of the Project Site, which may have buildings located thereon, and the Developer acknowledges receipt of such notice:

"Radon Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."

6.20. Assignability. Prior and up to the Closing Date, the Developer shall have the right to assign the right to purchase the Project Site to a land trust to be created by Pinellas County, Florida.

ARTICLE 7. CONSTRUCTION OF THE PROJECT.

7.01. Site Clearance.

The Developer shall be responsible for clearance of the Project Site such that it is in a condition ready for Commencement of Construction as of the Commencement Date. Permits issued by the City for pre-construction activities on the Project Site, including site clearance, shall not be considered a Building Permit for purposes of this Agreement.

7.02. Construction of the Project.

(a) The Developer shall construct the Project on the Project Site substantially in accordance with the Project Plans and Specifications. Subject to Unavoidable Delay and the terms and conditions in this Agreement, the Developer shall Commence Construction of the Project no later than October 18, 2021.

(b) All obligations of the Developer with respect to commencement, continuation and completion of construction of the Project shall be subject to delays and extensions from time to time for Unavoidable Delay. The Developer shall not be deemed to be in default of this Agreement to the extent construction or completion

of the Project, or any part thereof, is not complete by reason of Unavoidable Delay.

(c) For purposes of this Agreement, "completion," "complete," "substantially complete" or "substantial completion" means, that a Certificate of Occupancy for each residential building has been issued by the City.

(d) (1) Commencing on the fifteenth (15th) day of the calendar month following the calendar month in which the Commencement Date occurs and continuing until the Completion Date, the Developer shall make quarterly reports to the Agency in such detail and in such form as may reasonably be requested by the Agency as to the actual progress of the construction of the Project.

(2) If the Agency reasonably believes adequate progress in the construction of the Project is not being made, the Agency shall give written notice to the Developer that adequate progress is apparently not being made in the Project and Developer shall have a period of ten (10) business days after receipt of such notice in which to respond to Agency as to why adequate progress is or is not being made toward completion of the Project.

(e) (1) The Developer agrees that each contract between the Developer and a Contractor for the Project shall provide, among other things, that: (i) notice shall be given to the Agency of any material defaults thereunder by the Developer or the Contractor; and (ii) in the event of a material breach by the Developer of such contract that is not being contested by the Developer, the Agency shall have the right, but not the obligation, to cure any defaults by the Developer under such contract without penalty to the Agency or stoppage of the work.

(2) If the Agency elects to cure a material default by the Developer under a contract between the Developer and a Contractor, upon receipt of a notice to that effect from the Agency, the Developer shall immediately deliver to the Agency all plans, specifications, drawings, contracts and addenda thereto pertaining to the construction of that part of the Project which are in its possession or control (and shall instruct the Project Professionals and any other persons in possession or control of such plans, specifications, drawings and contracts to deliver them to the Agency).

(3) The right of the Agency to cure any default by the Developer as provided in paragraph (1) above shall be subject and subordinate to the right of the Construction Lender to cure such default.

7.03. Maintenance and Repairs. During the construction of the Project, the Developer shall, at its own expense, keep the Project in good and clean order and condition and the Developer shall promptly make all necessary or appropriate repairs, replacements and renewals thereof, whether ordinary or extraordinary, foreseen or unforeseen. All repairs, replacements and renewals shall be equal in quality and class to the original work. When making such repairs, replacements or renewals, the Developer shall comply with all applicable laws, ordinances, codes and regulations.

7.04. Project Alterations or Improvements. During the construction of the Project, the Developer may, from time to time, make alterations and improvements, structural or otherwise, to the Project as the Developer deems desirable and consistent with the Project Plans and Specifications for the uses contemplated by this Agreement; provided, however, that prior to the commencement of any material alterations or improvements of sufficient size and scope as to constitute a material change in the previously approved Project Plans and Specifications, the Developer shall notify the Agency of such material change and shall submit a change, amendment or revision to the Project Plans and Specifications to the Agency for review as provided in Sections 4.03 and 4.04 hereof. Nothing in this Section 7.04 is intended nor shall be deemed to limit or restrict the exercise of governmental or regulatory powers or authority by the City or any other governmental entity or to enlarge its regulatory authority.

7.05. Completion Certificate.

(a) (1) Upon the substantial completion of the construction of the Project in accordance with the provisions of this Article 7 (particularly including subsection 7.02(c)), the Developer shall prepare and execute the Completion Certificate, which shall then be delivered to the Agency. Upon receipt of the Completion Certificate, the Agency shall promptly and diligently proceed to determine if construction has been completed substantially

in accordance with the Project Plans and Specifications and this Agreement. Upon making such a determination the Agency shall execute the Completion Certificate and return it to the Developer. The date of the Completion Certificate shall be the date when the last of the parties shall have executed the Completion Certificate.

(2) The Completion Certificate shall constitute a conclusive determination by the parties hereto of the satisfaction and termination of the obligations of the Developer hereunder to construct the Project; provided, however, that nothing in this Section 7.05 shall be a waiver of the rights, duties, obligations or responsibilities of the City or any other governmental entity acting in its regulatory or governmental capacity or an approval of said construction for purposes of the issuance of a certificate of occupancy for the Project.

(3) The parties agree that it is their intent that the review by the Agency for purposes of the Completion Certificate determination pursuant to this Section 7.05 is not to be an additional or duplicate inspection over and above that required for purposes of the Building Permit, including the issuance of a certificate of occupancy. The Agency agrees that for purposes of determining if the Project has been substantially completed in accordance with the Project Plans and Specifications, the issuance of a certificate of occupancy shall be a conclusive determination of substantial completion for purposes of this subsection (a) and, if such certificate of occupancy has been determined to have been issued, then the Agency agrees to execute the Completion Certificate.

(b) If the Agency shall refuse or fail to execute the Completion Certificate after receipt of a request by the Developer to do so, then the Agency shall, within ten (10) days after its receipt of such request, provide the Developer with a written statement setting forth in reasonable detail the reason(s) why the Agency has not executed the Completion Certificate and what must be done by the Developer to satisfy such objections so that the Agency would sign the Completion Certificate. Upon the Developer satisfying the Agency's objections, then the Developer shall submit a new request to the Agency for execution of the Completion Certificate and that request shall be considered and acted upon in accordance with the procedures in paragraph (a)(1) for the original request.

(c) The Completion Certificate shall be in a form sufficient to be recorded in the public records of Pinellas County, Florida. After execution by the Agency, it shall be promptly returned to the Developer who shall record the Completion Certificate in the public records of Pinellas County, Florida, and pay the cost of such recording.

7.06. Agency Not in Privity with Contractors. The Agency shall not be deemed to be in privity of contract with any Contractor or provider of goods or services with respect to the construction of the Project.

7.07. Repurchase of the Project Site.

(a) In the event Developer does not commence Construction of the Project in accordance with the Project Schedule set forth in Sections 4.06 and 7.02 hereof, Agency shall have an option to purchase the Project Site upon the terms and conditions as set forth in this Section 7.07 (the "Property Option"). The Property Option shall be exercised by Agency within ninety (90) days following the last date on which Developer was required to commence Vertical Construction. The Property Option shall be exercised by Agency providing written notice to Developer of its intent to exercise the Property Option within said ninety (90) day period (time being of the essence with respect to such notice); provided, however, that Agency shall not have the right to exercise such Property Option in the event Developer cures its failure to commence Vertical Construction within thirty (30) days following its receipt of such written notice. If Agency should fail to provide such written notice of its exercise of the Property Option within said ninety (90) day period, then the Property Option shall immediately and automatically lapse.

(b) Upon proper and timely exercise of the Property Option, Agency and Developer shall undertake to close the conveyance of the Project Site by Developer to Agency within sixty (60) days following the date of notice of the exercise of the Property Option upon the following terms and conditions:

(1) The Project Site shall be acquired subject to any recorded mortgages, notes, or other debt instruments in favor of third parties encumbering the title to the Project Site as evidenced in the Public Records of Pinellas County, Florida.

- (2) The price to be paid by Agency to Developer for the Project Site shall equal the Purchase Price paid by Developer to Agency at closing less the amount of outstanding debt encumbering the Project Site pursuant to paragraph (b)(1) above that is assumed by the Agency.
 - (3) The Project Site shall be conveyed by Developer to Agency pursuant to a special warranty deed, which deed shall be subject to taxes for the year of closing and the other Permitted Exceptions to which the Project Site was subject on the Closing Date.
- (c) Upon the commencement of Vertical Construction by Developer in accordance with the Project Schedule, the Agency shall, within five (5) days of Developer's request, execute and deliver to Developer, in recordable form, a termination of the Agency's Property Option.
- (d) Upon conveyance of the Project Site to the Agency pursuant to the exercise of the Property Option, this Agreement shall terminate as provided in Section 12.05.
- (e) The Property Option shall survive a termination of this Agreement by the Developer pursuant to Section 12.05.

ARTICLE 8. INSURANCE.

8.01. Insurance Requirements Generally.

- (a) The Developer agrees to purchase and maintain or cause its construction Contractor to purchase and maintain) in full force and effect such insurance policies with coverages generally applicable to projects in the State of Florida and Pinellas County similar in size and scope to the Project. All insurance shall be obtained from financially responsible insurance companies either duly authorized under the laws of the State of Florida to do insurance business in the State of Florida (or subject to legal process in the State of Florida) and shall be issued and countersigned by duly authorized representatives of such companies for the State of Florida.
- (b) The insurance coverages and limits shall be evidenced by properly executed certificates of insurance, copies of which shall be provided to the Agency during the term of this Agreement. No less than thirty (30) days written notice by registered or certified mail must be given by the Developer to the Agency of any cancellation, intent not to renew, or reduction in the policy coverages.
- (c) Nothing in this Agreement is intended or shall be deemed to be designed by the Agency as a recommended insurance program for the Developer.
- (d) (1) The Developer alone shall be responsible for the sufficiency of its own insurance program. The Agency will in no way be responsible to the Developer or any other party for any inadequacy of the Developer's overall insurance program.
- (2) The Agency shall be responsible for the sufficiency of its insurance program. The Developer will in no way be responsible to the Agency or any other party for any inadequacy of the Agency's overall insurance program.

8.02. No Waiver of Sovereign Immunity. Nothing in this Article 8 is intended or shall be deemed to constitute a waiver in whole or in part of any sovereign immunity applicable to and that may be asserted by the City or the Agency.

ARTICLE 9. INDEMNIFICATION.

The Developer agrees to assume all risks of inherent in this Agreement and all liability therefore, and shall defend, indemnify, and hold harmless the Agency, its officers, agents, and employees from and against any and all claims of loss, liability and damages of whatever nature, to persons and property, including, without limiting the generality of the foregoing, death of any person and loss of the use of any property, except claims arising from the negligence of the Agency or Agency's agents or employees. This includes, but is not limited to, matters arising out of or claimed to have been caused by or in any manner related to the Developer's activities or those of any approved or unapproved invitee, contractor, subcontractor, or other person approved, authorized, or permitted by the Developer whether or not based on negligence. Nothing herein shall be construed as consent by the Agency to be sued by third parties, or as a waiver or modification of the provisions or limits of Section 768.28, Florida Statutes or the Doctrine of Sovereign Immunity.

ARTICLE 10. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE DEVELOPER.

10.01. Representations and Warranties. The Developer represents and warrants to the Agency that each of the following statements is currently true and accurate and agrees the Agency may rely upon each of the following statements:

(a) The Developer is a Florida Limited Liability Company duly organized and validly existing under the laws of the State of Florida, has all requisite power and authority to carry on its business as now conducted, to own or hold its properties and to enter into and perform its obligations hereunder and under each document or instrument contemplated by this Agreement to which it is or will be a party and has consented to service of process upon a designated agent for service of process in the State of Florida.

(b) This Agreement and, to the extent such documents presently exist in form accepted by the Agency and the Developer, each document contemplated or required by this Agreement to which Developer is or will be a party have been duly authorized by all necessary action on the part of, and have been or will be duly executed and delivered by, the Developer, and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof: (1) requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein, (2) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the Developer, (3) contravenes or results in any breach of, default under or, other than as contemplated by this Agreement, results in the creation of any lien or encumbrance upon any property of the Developer under any indenture, mortgage, deed of trust, bank loan or credit agreement, the Developer's articles of organization, or, any other agreement or instrument to which the Developer is a party or by which the Developer may be bound.

(c) This Agreement and, to the extent such documents presently exist in form accepted by the Agency and the Developer, each document contemplated or required by this Agreement to which the Developer is or will be a party constitutes, or when entered into will constitute, a legal, valid and binding obligation of the Developer enforceable against the Developer in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(d) There are no pending or, to the knowledge of the Developer, threatened actions or proceedings before any court or administrative agency against the Developer, or against any controlling shareholder, officer, employee or agent of the Developer, which question the validity of this Agreement or any document contemplated hereunder, or which are likely in any case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder or the financial condition of the Developer.

(e) The Developer has filed or caused to be filed all federal, state, local and foreign tax returns, if any, which were required to be filed by the Developer, and has paid, or caused to be paid, all taxes shown to be due and payable on such returns or on any assessments levied against the Developer.

(f) All financial information and other documentation, including that pertaining to the Project or the Developer, delivered by the Developer to the City and the Agency, was, on the date of delivery thereof, true

and correct.

(g) The principal place of business and principal executive offices of the Developer are at 5403 W. Gray St. Tampa, Florida 33609, and, until the expiration or termination of this Agreement, the Developer will keep original or duplicate records concerning the Project (such as construction contracts, financing documents and corporate documents) and all contracts, licenses and similar rights relating thereto at its office located at 5403 W. Gray St. Tampa, Florida 33609, copies of which shall be made available to Agency upon 48 business hours' written notice.

(h) As of the Closing Date, the Developer will have the financial capability to carry out its obligations and responsibilities in connection with the development of the Project as contemplated by this Agreement, including the purchase of the Project Site from the Agency as contemplated by Article 6.

(i) The Developer (with the assistance of its Project Professionals) has the experience, expertise, and capability to develop, cause the construction, and complete the Project and, oversee and manage the design, planning, construction, and completion of the Project, and to acquire the Project Site as provided herein.

10.02. Covenants. The Developer covenants with the Agency that until the earlier of the Termination Date or the Expiration Date:

(a) The Developer shall timely perform or cause to be performed all of the obligations contained herein which are the responsibility of the Developer to perform.

(b) During each year this Agreement and the obligations of the Developer under this Agreement shall be in effect, the Developer shall cause to be executed and to continue to be in effect those instruments, documents, certificates, permits, licenses and approvals and shall cause to occur those events contemplated by this Agreement that are applicable to, and that are the responsibility of, the Developer.

(c) The Developer shall assist and cooperate with the Agency to accomplish the development of the Project by the Developer in accordance with this Agreement and the Project Plans and Specifications and will not violate any laws, ordinances, rules, regulations, orders, contracts or agreements that are or will be applicable thereto, including the Plan and the Act.

(d) The Developer shall comply with all provisions of the financing documents for any Construction Financing.

(e) Subsequent to the Effective Date, the Developer shall maintain its financial capability to develop, construct and complete the Project and shall promptly notify the Agency of any event, condition, occurrence, or change in its financial condition which materially adversely affects, or with the passage of time is likely to adversely affect, the Developer's financial capability to successfully and completely develop, construct and complete the Project as contemplated hereby.

(f) The Developer shall promptly cause to be filed when due all federal, state, local and foreign tax returns required to be filed by it and shall promptly pay when due any tax required thereby so as to avoid an uncured tax lien against the Project Site.

(g) Subject to and except as permitted by Section 15.01, the Developer shall maintain its existence, will not dissolve or substantially dissolve all of its assets and will not consolidate with or merge into another corporation, limited partnership, or other entity without the prior approval of the Agency, unless the Developer is the surviving entity or retains a controlling interest in the consolidated or merged corporation, in which case no consent by Agency shall be required. In any event, prior to the expiration or termination of this Agreement, the Developer, will promptly notify the Agency of any changes to the existence or form of the limited liability company of Developer.

(h) The Developer shall not sell, lease, transfer or otherwise dispose of all or substantially all its assets without adequate consideration and will otherwise take no action which shall have the effect, singularly or in the aggregate, of rendering Developer unable to continue to observe and perform the covenants, agreements,

and conditions hereof and the performance of all other obligations required by this Agreement.

(i) Except for the removal of any structures, plants, items or other things from the Project Site after the Closing Date necessary for construction of the Project to commence and continue, the Developer shall not permit, commit, or suffer any waste or impairment of the Project Site prior to the earlier of the Termination Date or the Expiration Date.

(j) Provided all conditions precedent thereto have been satisfied or waived as provided herein, the Developer shall design, construct and complete the Project such that it is substantially complete as set forth in Section 4.06 of this Agreement.

10.03 Covenant: Nondiscrimination. The Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, ancestry or national origin in the marketing, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Project Site, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub lessees or vendees of the Project Site.

10.04. Survival. The representations, warranties and covenants of Developer as contained in Section 10.01 and 10.02 hereof shall survive the conveyance of the Project Site to the Developer by the Agency. The representations, warranties and covenants of Developer as contained in Section 10.03 hereof shall survive the conveyance of the Project Site to the Developer by the Agency and Termination or Expiration. The Parties agree that the survival contained in this section ultimately terminate on October 1, 2029.

ARTICLE 11. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AGENCY.

11.01. Representations and Warranties. The Agency represents and warrants to the Developer that each of the following statements is currently true and accurate and agrees that the Developer may rely on each of the following statements:

(a) The Agency is a validly existing body corporate and politic of the State of Florida, is the duly created community redevelopment agency of the City under Part III, Chapter 163, Florida Statutes (known as the Community Redevelopment Act of 1969), has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations hereunder and under each document or instrument contemplated by this Agreement to which it is or will be a party.

(b) This Agreement and, to the extent such documents presently exist in form accepted by the Agency and the Developer, each document contemplated or required by this Agreement to which the Agency is or will be a party have been duly authorized by all necessary action on the part of, and have been or will be duly executed and delivered by, the Agency, and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof (1) requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein, (2) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the Agency, (3) contravenes or results in any breach of, or default under or, other than as contemplated by this Agreement, results in the creation of any lien or encumbrance upon any property of the Agency under any indenture, mortgage, deed of trust, bank loan or credit agreement, applicable ordinances, resolutions or, on the date of this Agreement, any other agreement or instrument to which the Agency is a party, specifically including any covenants of any bonds, notes, or other forms of indebtedness of the Agency outstanding on the Effective Date.

(c) This Agreement and, to the extent such documents presently exist in form accepted by the Agency and the Developer, each document contemplated or required by this Agreement to which the Agency is or will be a party constitute, or when entered into will constitute, legal, valid and binding obligations of the Agency enforceable against the Agency in accordance with the terms thereof, except as such enforceability may be limited by public policy or applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(d) There are no pending or threatened actions or proceedings before any court or administrative agency against the Agency, or against any officer of the Agency, which question the validity of any document contemplated hereunder, or which are likely in any case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder or the financial condition of the Agency.

11.02. Covenants. The Agency covenants with the Developer that until the earlier of the Termination Date or the Expiration Date:

(a) The Agency shall timely perform or cause to be performed all the obligations contained herein which are the responsibility of the Agency to perform.

(b) During each year that this Agreement and the obligations of the Agency under this Agreement shall be in effect, the Agency shall cause to be executed and to continue to be in effect those instruments, documents, certificates, permits, licenses and approvals, and shall cause to occur those events contemplated by this Agreement that are applicable to and are the responsibility of the Agency.

(c) The Agency shall assist and cooperate with the Developer to accomplish the development of the Project in accordance with this Agreement and the Project Plans and Specifications, will carry out its duties and responsibilities contemplated by this Agreement, and will not violate any laws, ordinances, rules, regulations, orders, contracts, or agreements that are or will be applicable thereto, and, to the extent permitted by law, the Agency will not enact or adopt or urge or encourage the adoption of any ordinances, resolutions, rules, regulations or orders or approve or enter into any contracts or agreements, including issuing any bonds, notes, or other forms of indebtedness, that will result in any provision of this Agreement to be in violation thereof.

(d) The Agency shall not request or recommend any rezoning of the Project Site, or any part thereof, which will prevent or adversely affect the development of the Project.

(e) The Agency to the best of its ability, shall maintain its financial capability to carry out its responsibilities as contemplated by this Agreement and shall notify the Developer of any event, condition, occurrence, or change in its financial condition that adversely affects, or with the passage of time is likely to adversely affect, the Agency's financial capability to carry out its responsibilities contemplated hereby.

11.03. Survival. The representations, warranties and covenants of Agency as contained in Section 11.01 and 11.02 hereof shall survive the conveyance of the Project Site to the Developer by the Agency.

ARTICLE 12. DEFAULT; TERMINATION.

12.01. Default by Developer.

(a) Provided the Agency is not then in default of this Agreement under Section 12.02 hereof, the occurrence of any one or more of the following after the Effective Date shall constitute an event of default by Developer ("Developer Event of Default"):

(1) The Developer shall fail to perform or comply with any material provision of this Agreement applicable to it within the time prescribed therefor; provided, however, that suspension of or delay in performance by the Developer during any period in which the Agency is in default of this Agreement as provided in Section 12.02 hereof will not constitute a Developer Event of Default under this subsection (a); or

(2) The Developer shall make a general assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation or shall file an answer admitting, or shall fail reasonably to contest, the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Developer or any material part of such entity's properties; or

(3) Within sixty (60) days after the commencement of any proceeding by or against the Developer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed or otherwise terminated, or if, within sixty (60) days after the appointment without the consent or acquiescence of the Developer of any trustee, receiver or liquidator of any of such entities or of any material part of any of such entity's properties, such appointment shall not have been vacated.

(b) (1) If a Developer Event of Default shall remain uncured thirty (30) days after written notice thereof to the Developer, then, in addition to any remedy available under Section 12.03, the Agency may terminate this Agreement or pursue any and all legal or equitable remedies to which the Agency is entitled, including an action for declaratory or injunctive relief. In the event the Developer has commenced to cure the Developer Event of Default but it is of such nature that it cannot be completely cured within thirty (30) days, then Developer shall have such reasonable additional time as is necessary to cure the Developer Event of Default provided that the entire cure period shall not exceed ninety (90) days after Developer's initial receipt of notice of the Developer Event of Default. Notwithstanding any provision in this Agreement to the contrary, if a Developer Event of Default shall occur prior to the Closing Date, Agency's sole and exclusive remedy shall be to terminate this Agreement.

(2) Any time periods or deadlines provided in this Agreement shall be tolled or extended by the amount of time to cure any Developer Event of Default hereunder if such event affects the Agency's ability to perform by such deadline or the expiration of such period.

(c) Subject to the rights of any Lender, any Contractor, creditors of the Developer, and others claiming a legal or equitable interest in the Project, or a portion thereof, if the Agency elects under Sections 5.05 or 5.08 to cure a Developer Event of Default and complete the construction of the Project, all plans and specifications, working drawings, construction contracts, contract documents, Building Permits, Permits, management agreements, and financial commitments (all only to the extent assignable) with respect to the Project shall, if such default has not been previously cured, on the day following receipt by the Developer of notice from the Agency of its election to cure under Section 5.05 or 5.08, be deemed then assigned to the Agency making said election, without necessity of any other action being taken or not taken by any party hereto. The Developer shall transfer and deliver to the Agency upon making said election, all assignable Project Plans and Specifications, working drawings, construction contracts, contract documents, financial commitments, management agreements, and all Permits.

12.02. Default by the Agency.

(a) Provided the Developer is not then in default under Section 12.01, there shall be an "Agency Event of Default" under this Agreement in the event the Agency shall fail to perform or comply with any material provision of this Agreement applicable to it; provided, however, that suspension of or delay in performance by the Agency during any period in which the Developer is in default of this Agreement as provided in Section 12.01 hereof will not constitute an Agency Event of Default under this subsection (a).

(b) If an Agency Event of Default described in subsection (a) shall occur, the Developer shall provide written notice thereof to the Agency, and, after expiration of the curative period described in paragraph (b) below, may terminate this Agreement, institute an action to compel specific performance of the terms hereof by the Agency or pursue any and all legal or equitable remedies to which the Developer is entitled; provided, however, if the Agency Event of Default occurs on or prior to the Closing Date, any monetary recovery by the Developer in any such action shall not include any lost profits or consequential damages and shall be limited to bona fide third-party out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by the Developer in connection with the negotiation of this Agreement as well as any investigation, due diligence, development, design or construction costs incurred by the Developer in connection with the proposed acquisition and development of the Project Site, unless any such Agency Event of Default was willful and committed in bad faith with reckless disregard for the rights of the Developer. If the Agency Event of Default occurs following the Closing Date, Developer shall provide written notice thereof to the Agency, and, after the expiration of the curative period described in paragraph (c) below, may terminate this Agreement, institute an action to compel specific performance of the terms hereof by the Agency or pursue any and all legal or equitable remedies to which the Developer is entitled; any monetary recovery by the Developer in any such action shall

include any lost profits or consequential damages in addition to reimbursement for bona fide third-party out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by the Developer in connection with the negotiation of this Agreement as well as any investigation, due diligence, development, design or construction costs incurred by the Developer in connection with the proposed acquisition and development of the Project Site.

(c) The Developer may not terminate this Agreement or institute an action described in paragraphs (a) or (b) above if the Agency cures such Agency Event of Default within thirty (30) days after receipt by the Agency of written notice from the Developer specifying in reasonable detail the Agency Event of Default, or if any such Agency Event of Default is of such nature that it cannot be completely cured within such period, then within such reasonably longer period of time as may be necessary to cure such Agency Event of Default. If the Agency is proceeding diligently and in good faith to cure such Agency Event of Default, the curative period shall be extended for a period of not exceeding an additional thirty (30) days without any approval or consent of the Developer being required, but such approval will be required (and shall be given or withheld in Developer's sole discretion) if the curative period is to be extended beyond the aggregate of sixty (60) days after the notice of such Agency Event of Default has been given by the Developer to the Agency. If the Agency shall fail to cure such Agency Event of Default within said thirty (30) day or longer period (as extended above) or ceases to proceed diligently to timely cure such Agency Event Default, then the Developer may proceed with its available remedies without providing any additional notice to the Agency.

(d) Any time periods or deadlines provided in this Agreement shall be tolled or extended by the amount of time to cure any Agency Event of Default hereunder if such event affects the Developer's ability to perform by such deadline or the expiration of such period.

12.03. Obligations, Rights and Remedies Cumulative. Unless specifically stated herein to the contrary, the specified rights and remedies to which either the Agency or the Developer are entitled under this Agreement are not exclusive and are intended to be in addition to any other remedies or means of redress to which the Agency or the Developer may lawfully be entitled and are not specifically prohibited by this Agreement. The suspension of, or delay in, the performance of its obligations by the Developer, while the Agency shall at such time be in default of their obligations hereunder shall not be deemed to be a Developer Event of Default. The suspension of, or delay in, the performance of the obligations by the Agency while the Developer shall at such time be in default of its obligations hereunder shall not be deemed to be an Agency Event of Default.

12.04. Non-Action on Failure to Observe Provisions of this Agreement. The failure of the Agency or the Developer to promptly or continually insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any Exhibit hereto, or any other agreement, instrument or document of whatever form or nature contemplated hereby shall not be deemed a waiver of any right or remedy that the Agency or the Developer may have, and shall not be deemed a waiver of a subsequent default or nonperformance of such term, covenant, condition or provision.

12.05. Termination.

(a) The Developer and the Agency acknowledge and agree that as of the Effective Date, certain matters mutually agreed upon by the parties hereto, which are essential to the successful development of the Project, have not been satisfied or are subject to certain conditions, legal requirements or approvals beyond the control of any of the parties hereto or which cannot be definitely resolved under this Agreement. In recognition of these events or conditions, the parties hereto mutually agree that, provided the appropriate or responsible party therefor diligently and in good faith seeks to the fullest extent of its capabilities to cause such event or condition to occur or be satisfied, the failure of the events or conditions listed in subsection (b) below to occur or be satisfied shall not constitute an event of default by any party under this Article 12, but may be the basis for a termination of this Agreement as provided in this Section 12.05.

(b) In addition to any other rights of termination provided elsewhere in this Agreement, this Agreement may be terminated prior to the Closing Date as provided in subsection (c) after the occurrence of any of the following events or conditions:

- (1) Failure to satisfy the Conditions to Closing set forth in Section 6.09.

(2) All of the Project Site is taken by the exercise of the power of eminent domain by a governmental authority (except the City or the Agency) or a person entitled to exercise such power or benefiting therefrom, or such part of the Project Site is taken by the power of eminent domain so as to render the Project, in Developer's sole discretion, commercially unfeasible or unusable for its intended uses as contemplated by this Agreement.

(3) The appropriate governmental authority (but not including the City in exercise of its governmental and regulatory authority and responsibility), upon petition by the Developer, unduly delays or denies or fails to issue the Permits, issue the Building Permits, or approve any other land use approval necessary to Commence Construction of the Project on the Project Site.

(4) A moratorium on new construction is imposed by a governmental authority within the City or Pinellas County preventing construction of the Project to commence.

(5) The City or other appropriate governmental authority has issued a concurrency compliance certificate or a reservation of services capacity as described in Section 3.05 and such certificate or reservation has been revoked, repealed, superseded, or otherwise no longer of any effect or the Developer is unable to rely upon such certificate or reservation, if such a certificate or reservation is required for development of the Project on the Project Site, and the Developer cannot obtain a new or replacement certificate or reservation for the Project.

(6) The City approves an amendment to the Plan, which is inconsistent with the Project being located on the Project Site.

(7) Utilities are not readily available at the boundaries of the Project Site at locations satisfactory to the Developer by the Closing Date.

(c) In the event of a termination pursuant to Section 12.05(b), neither the Developer nor the Agency shall be obligated or liable one to the other in any way, financially or otherwise, for any claim or matter arising from or as a result of this Agreement or any actions taken by the Developer and the Agency, or any of them, hereunder or contemplated hereby, and each party shall be responsible for its own costs, excluding provisions of this Agreement which specifically survive the termination of this Agreement.

(d) Notwithstanding anything to the contrary contained herein, in the event that any party shall have, but shall not exercise, the right hereunder to terminate this Agreement because of the non-satisfaction of any condition specified herein, and such condition is subsequently satisfied, then the non-satisfaction of such condition shall no longer be the basis for termination of this Agreement.

(e) In no event will the Agreement be terminated sooner than April 30, 2021 for any reason other than failure to pay any monies due under the Agreement.

12.06. Termination Certificate.

(a) In the event of a termination of this Agreement for any reason prior to the Expiration Date, each of the parties hereto do covenant and agree with each other to promptly execute a certificate prepared by the party electing to terminate this Agreement, which certificate shall expressly state that this Agreement has been terminated in accordance with its terms, is no longer of any force and effect except for those provisions hereof which expressly survive termination, that the rights, duties and obligations of the parties hereto have been terminated and released (subject to those surviving provisions hereof) and that the Project Site is no longer subject to any restrictions, limitations or encumbrances imposed by this Agreement.

(b) The certificate described in subsection (a) shall be prepared in a form suitable for recording and promptly after execution by all of the parties hereto shall be recorded in the public records of Pinellas County, Florida. The cost of recording the termination certificate shall be paid by the terminating party.

12.07 Remedies. All remedies provided for herein and under Florida law shall be cumulative and shall

survive the technical termination of this Agreement pursuant to execution, delivery and recordation of a Termination Certificate or otherwise hereunder.

ARTICLE 13. UNAVOIDABLE DELAY.

13.01. Unavoidable Delay.

(a) Any delay in performance of or inability to perform any obligation under this Agreement (other than an obligation to pay money) due to any event or condition described in paragraph (2) as an event of "Unavoidable Delay" shall be excused in the manner provided in this Section 13.01.

(b) "Unavoidable Delay" means any of the following events or conditions or any combination thereof: acts of God, acts of the public enemy, riot, insurrection, war, pestilence, archaeological excavations required by law, unavailability of materials after timely ordering of same, building moratoria, discovery and remediation of previously unidentified environmental contamination discovered after the Closing Date, epidemics, quarantine restrictions, freight embargoes, fire, lightning, hurricanes, earthquakes, tornadoes, floods, extremely abnormal and excessively inclement weather (as indicated by the records of the local weather bureau for a five-year period preceding the Effective Date), strikes or labor disturbances, delays due to proceedings under Chapters 73 and 74, Florida Statutes, restoration in connection with any of the foregoing or any other cause beyond the reasonable control of the party performing the obligation in question, including, without limitation, such causes as may arise from the act of the other party to this Agreement, or acts of any governmental authority (except that acts of the Agency shall not constitute an Unavoidable Delay with respect to performance by the Agency).

(c) An application by any party hereto (referred to in this paragraph (c) and in paragraph (d) as the "Applicant") for an extension of time pursuant to subsection (a) must be in writing, must set forth in detail the reasons and causes of delay, and must be filed with the other party to this Agreement within thirty (30) days following the occurrence of the event or condition causing the Unavoidable Delay or thirty (30) days following the Applicant becoming aware (or with the exercise of reasonable diligence should have become aware) of such occurrence.

(d) The Applicant shall be entitled to an extension of time for an Unavoidable Delay only for the number of days of delay due solely to the occurrence of the event or condition causing such Unavoidable Delay and only to the extent that any such occurrence actually delays that party from proceeding with its rights, duties and obligations under this Agreement affected by such occurrence.

ARTICLE 14. FIRE OR OTHER CASUALTY; CONDEMNATION.

14.01. Loss or Damage to Project. If economically reasonable as determined by Developer, the Developer covenants and agrees to diligently commence and complete the reconstruction or repair of any loss or damage caused by fire or other casualty or by eminent domain (provided the City or the Agency is not the condemning authority) to each and every part of the Project to substantially the same as existed prior to the occurrence of such loss or damage. Any reconstruction or repair of any loss or damage to the Project shall be to the standards, design, plans and specifications of the original construction unless any change therefrom is approved by the Agency.

14.02. Partial Loss or Damage to Project. Any loss or damage by fire or other casualty or exercise of eminent domain to the Project or Project Site, or any portion thereof, which does not render the Project or Project Site reasonably unusable for the use contemplated by this Agreement, shall not operate to terminate this Agreement or to relieve or discharge the Developer from the timely performance and fulfillment of the Developer's obligations pursuant to this Agreement, subject to an extension of time for an Unavoidable Delay.

14.03. Notice of Loss or Damage to Project. The Developer shall promptly give the Agency written notice of any significant damage or destruction to the Project stating the date on which such damage or destruction occurred, the expectations of the Developer as to the effect of such damage or destruction on the use of the Project, and the proposed schedule, if any, for repair or reconstruction of the Project. If the Developer determines the Project cannot be repaired or restored in an economically justifiable or other manner, then the Developer shall so notify the Agency and state reasons supporting its determination.

14.04. Subject to Financing. The Developer's obligations under this Article 14 are subject to the terms and conditions of the Construction Financing or any other mortgage financing in effect at the time any such obligations hereunder would otherwise be applicable.

ARTICLE 15. MISCELLANEOUS.

15.01. Assignments.

(a) (1) Prior to the earlier of the Termination Date or the Expiration Date, the Developer may sell, convey, assign or otherwise dispose of any or all of its right, title, interest and obligations in and to the Project, or any part thereof to any person with the prior written consent of the Agency, which shall not be unreasonably withheld, provided that such party (hereinafter referred to as the "assignee"), to the extent of the sale, conveyance, assignment or other disposition by the Developer to the assignee, shall be bound by the terms of this Agreement the same as the Developer for such part of the Project as is subject to such sale, conveyance, assignment or other disposition, except for the sale of a condominium in the ordinary course of business.

(2) If the assignee of Developer's right, title, interest and obligations in and to the Project, or any part thereof, assumes all of Developer's obligations hereunder for the Project, or that part subject to such sale, conveyance, assignment or other disposition, then the Developer shall be released from all such obligations hereunder which have been so assumed by the assignee, and the Agency agrees to execute an instrument evidencing such release, which shall be in recordable form.

(b) An assignment of the Project, or any part thereof, by the Developer to any corporation, limited partnership, limited liability company, general partnership, or joint venture, in which the Developer is a general partner or has either the controlling interest or through a joint venture or other arrangement shares equal management rights with a financial institution and maintains such controlling interest or equal management rights for the term of this Agreement shall not be deemed an assignment or transfer subject to any restriction on or approvals of assignments or transfers imposed by this Section 15.01, provided, however, that notice of such assignment shall be given by the Developer to the Agency no less than thirty (30) days prior to such assignment being effective and the assignee shall be bound by the terms of this Agreement to the same extent as would the Developer in the absence of such assignment. If the Developer shall at any time withdraw or be replaced as a general partner or no longer have the controlling interest or management rights as described in this subsection, then that event shall constitute an assignment of the Developer's right, title, interest or obligations under this Agreement for purposes of this Section 15.01 and the prior approval of the Agency shall be obtained before such an event shall be effective.

15.02. Successors and Assigns. The terms herein contained shall bind and inure to the benefit of the Agency, and its successors and assigns, and the Developer, and its successors and assigns, except as may otherwise be specifically provided herein.

15.03. Notices.

(a) All notices, demands, requests for approvals or other communications given by either party to another shall be in writing, and shall be sent by registered or certified mail, postage prepaid, return receipt requested or by overnight courier service, or by hand delivery to the office for each party indicated below and addressed as follows:

To the Developer:

SP Clearwater WFH, LLC
5403 W. Gray Street

Tampa, FL 33609
Attention: Peter Leach, Vice President

With copies to:

To the Agency:

Community Redevelopment Agency of the City
of Clearwater
P.O. Box 4748
Clearwater, Florida 33758
Attention: Executive Director

With copies to:

Amber Williams
Pepple Cantu Schmidt PLLC
2430 Estancia Boulevard
Suite 114
Clearwater, FL 33761

City of Clearwater
P.O. Box 4748
Clearwater, Florida 33758
Attention: City Attorney

(b) Notices given by courier service or by hand delivery shall be effective upon deposit with the courier or delivery service. Notices given by overnight delivery company shall be deemed received on the first (1st) business day after deposit with the overnight delivery company. Notices given by mail shall be deemed received on the third (3rd) business day after mailing. Refusal by any person to accept delivery of any notice delivered to the office at the address indicated above (or as it may be changed) shall be deemed to have been an effective delivery as provided in this Section 15.03. The addresses to which notices are to be sent may be changed from time to time by written notice delivered to the other parties and such notices shall be effective upon receipt. Until notice of change of address is received as to any particular party hereto, all other parties may rely upon the last address given.

15.04. Severability. If any term, provision or condition contained this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

15.05. Applicable Law and Construction. The laws of the State of Florida shall govern the validity, performance and enforcement of this Agreement. This Agreement has been negotiated by the Agency and the Developer, and the Agreement, including, without limitation, the Exhibits, shall not be deemed to have been prepared by the Agency or the Developer, but by all equally.

15.06. Venue; Submission to Jurisdiction.

(a) For purposes of any suit, action or other proceeding arising out of or relating to this Agreement, the parties hereto do acknowledge, consent and agree that venue thereof is Pinellas County, Florida.

(b) Each party to this Agreement hereby submits to the jurisdiction of the State of Florida, Pinellas County and the courts thereof and to the jurisdiction of the United States District Court for the Middle District of Florida, for the purposes of any suit, action or other proceeding arising out of or relating to this Agreement and hereby agrees not to assert by way of a motion as a defense or otherwise that such action is brought in an inconvenient forum or that the venue of such action is improper or that the subject matter thereof may not be enforced in or by such courts.

(c) If, at any time during the term of this Agreement, the Developer is not a resident of the State of Florida or has no office, employee, agency, registered agent or general partner thereof available for service of process as a resident of the State of Florida, or if any permitted assignee thereof shall be a foreign corporation, partnership or other entity or shall have no officer, employee, agent, or general partner available for service of process in the State of Florida, the Developer hereby designates the Secretary of State, State of Florida, its agent for the service of process in any court action between it and the Agency arising out of or relating to this Agreement and such service shall be made as provided by the laws of the State of Florida for service upon a non-resident; provided, however, that at the time of service on the Florida Secretary of State, a copy of such service shall be delivered to the Developer at the address for notices as provided in Section 15.03.

15.07. Agreement Not a Chapter 86-191, Laws of Florida, Development Agreement. The Developer and the Agency acknowledge, agree and represent that this Agreement, including, without limitation, any of the Exhibits, is not a development agreement as described in Sections 19-31, Chapter 86-191, Laws of Florida, codified as Sections 163.3220-163.3243, Florida Statutes.

15.08. Estoppel Certificates. The Developer and the Agency shall at any time and from time to time, upon not less than ten (10) days prior notice by another party hereto, execute, acknowledge and deliver to the other parties a statement in recordable form certifying that this Agreement has not been modified and is in full force

and effect (or if there have been modifications that the said Agreement as modified is in full force and effect and setting forth a notation of such modifications), and that to the knowledge of such party, neither it nor any other party is then in default hereof (or if another party is then in default hereof, stating the nature and details of such default), it being intended that any such statement delivered pursuant to this Section 15.08 may be relied upon by any prospective purchaser, mortgagee, successor, assignee of any mortgage or assignee of the respective interest in the Project, if any, of any party made in accordance with the provisions of this Agreement.

15.09. Complete Agreement; Amendments.

(a) This Agreement, and all the terms and provisions contained herein, including without limitation the Exhibits hereto, constitute the full and complete agreement between the parties hereto to the date hereof, and supersedes and controls over any and all prior agreements, understandings, representations, correspondence and statements whether written or oral, including the RFP and the Proposal.

(b) Any provisions of this Agreement shall be read and applied in para materia with all other provisions hereof.

(c) This Agreement cannot be changed or revised except by written amendment signed by all parties hereto.

15.10. Captions. The article and section headings and captions of this Agreement and the table of contents preceding this Agreement are for convenience and reference only and in no way define, limit, describe the scope or intent of this Agreement or any part thereof, or in any way affect this Agreement or construe any article, section, subsection, paragraph or provision hereof.

15.11. Holidays. It is hereby agreed and declared that whenever a notice or performance under the terms of this Agreement is to be made or given on a Saturday or Sunday or on a legal holiday observed in the City, it shall be postponed to the next following business day.

15.12. Exhibits. Each Exhibit referred to and attached to this Agreement is an essential part of this Agreement. The Exhibits and any amendments or revisions thereto, even if not physically attached hereto shall be treated as if they are part of this Agreement.

15.13. No Brokers. The Agency and the Developer hereby represent, agree and acknowledge that no real estate broker or other person is entitled to claim or to be paid a commission as a result of the execution and delivery of this Agreement, including any of the Exhibits, or any proposed improvement, use, disposition, lease, conveyance or acquisition of any or all of the Project Site, specifically including the conveyance of the Project Site by the Agency to the Developer.

15.14. Not an Agent. During the term of this Agreement, the Developer hereunder shall not be an agent of the City or the Agency, with respect to any and all services to be performed by the Developer (and any of its agents, assigns, or successors) with respect to the Project, and the Agency is not an agent of the Developer (and any of its agents, assigns, or successors).

15.15. Memorandum of Development Agreement. The Agency and the Developer agree to execute, in recordable form, on the Effective Date, the short form "Memorandum of Agreement for Development and Purchase and Sale of Property," the form of which is attached hereto as Exhibit "D," and agree, authorize and hereby direct such Memorandum to be recorded in the public records of Pinellas County, Florida, as soon as possible after execution thereof. The Agency shall pay the cost of such recording.

15.16. Public Purpose. The parties acknowledge and agree that this Agreement satisfies, fulfills and is pursuant to and for a public purpose and municipal purpose and is in the public interest, and is a proper exercise of the Agency's power and authority under the Act.

15.17. No General Obligation. In no event shall any obligation, express or implied, of the Agency under this Agreement be or constitute a general obligation or indebtedness of the City or the Agency, a pledge of the ad

valorem taxing power of the City or the Agency or a general obligation or indebtedness of the City or the Agency within the meaning of the Constitution of the State of Florida or any other applicable laws, but shall be payable solely from legally available revenues and funds. Neither the Developer nor any other party under or beneficiary of this Agreement shall ever have the right to compel the exercise of the ad valorem taxing power of the City, the Agency or any other governmental entity or taxation in any form on any real or personal property to pay the City's or the Agency's obligations or undertakings hereunder.

15.18. Term; Expiration; Certificate.

(a) If not earlier terminated as provided in Section 12.05, the term of this Agreement shall expire and this Agreement shall no longer be of any force and effect (except for those matters which specifically survive such expiration) on the tenth anniversary of the Effective Date.

(b) Upon completion of the term of this Agreement, all parties hereto shall execute the Agreement Expiration Certificate. The Agreement Expiration Certificate shall constitute (and it shall be so provided in the certificate) a conclusive determination of satisfactory completion of all obligations hereunder and the expiration of this Agreement; provided, however, that the automatic termination as provided in Section 12.05 shall not be effected in the event that the Agreement Expiration Certificate is not executed and recorded.

(c) The Agreement Expiration Certificate shall be in such form as will enable it to be recorded in the public records of Pinellas County, Florida. Following execution by all of the parties hereto, the Agreement Expiration Certificate shall promptly be recorded by the Developer in the public records of Pinellas County, Florida, and the Developer shall pay the cost of such recording.

15.19. Effective Date. Following execution of this Agreement (and such of the Exhibits as are contemplated to be executed simultaneously with this Agreement) by the authorized officers of the Agency and by authorized representatives of the Developer following approval hereof by the Agency and the Developer this Agreement (and any executed Exhibits) shall be in full force and effect in accordance with its terms and upon the recording of the Memorandum of Agreement for Development and Purchase and Sale of Property as contemplated by Section 15.15 hereof.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have set their hands and their respective seals affixed as of the _____ day of _____, 2021.

AGENCY

COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF CLEARWATER, FLORIDA

By: _____
Frank V. Hibbard
Chairperson

Approved as to form:

Attest:

Michael P. Fuino
Attorney for
Community Redevelopment Agency

Rosemarie Call
City Clerk

DEVELOPER

SP CLEARWATER WFH, LLC
a Florida limited liability company

By: _____
By: _____
Name: _____
Its: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by _____, as _____ of _____ SP Clearwater WFH, LLC, a Florida limited liability company, on behalf of the company. He/She is personally known to me or who produced _____ as identification.

Print/Type Name: _____
Notary Public

EXHIBIT A

[Project Site Description]

Parcel Descriptions

Parcel I. D. No. 15/29/15/65196/000/0030 – Part of Lot 3, R. H. PADGETT'S SUB described as the North 330 feet of the West 150 feet of Lot 3, and the East 157 feet of the West 307 feet Less the South 100 feet of Lot 3, together with the North 18 feet of the West 150 feet of Lot 6, Less right-of-ways

Parcel I. D. No. 15/29/15/65196/000/0034 – R. H. PADGETT'S SUB., the South 50 feet of the East 157 feet of the West 307 feet of Lot 3

Parcel I. D. No. 15/29/15/65196/000/0060 – R. H. PADGETT'S SUB., the South 32 feet of the North 50 feet of the West 150 feet of Lot 6

Parcel I. D. No. 15/29/15/65196/000/0061 – R. H. PADGETT'S SUB., the North 50 feet of the South 100 feet of the North 150 feet of the West 150 feet of Lot 6

Parcel I. D. No. 15/29/15/65196/000/0062 – R. H. PADGETT'S SUB., the South 50 feet of the North 150 feet of the West 150 feet of Lot 6

Parcel I. D. No. 15/29/15/65196/000/0063 – R. H. PADGETT'S SUB., the East 157 feet of the West 307 feet of the North 150 feet of Lot 6

ALL according to the map of plat thereof as recorded in Plat Book H5, Page 27 of the Public Records of Hillsborough County, Florida, of which Pinellas County was formerly a part.

AND

Parcel #15/29/15/65196/000/0035

Beginning at the Southeast corner of the east one hundred fifty seven (157) feet of the west three hundred seven (307) feet of Lot 3 of R.H. Padgett's Subdivision according to the revised map or plat thereof as the same is recorded in Plat Book 4, Page 32, of the Public Records of Pinellas County, Florida, and run North fifty (50) feet for point of beginning; from said point run West one hundred fifty seven (157) feet, thence North fifty (50) feet, thence East one hundred fifty seven (157) feet, thence South fifty (50) feet to point of beginning.

EXHIBIT B

[Proposed Site Plan]

EXHIBIT C

SPECIAL WARRANTY DEED

COMMUNITY REDEVELOPMENT AGENCY, also known as THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF CLEARWATER, a body politic and corporate of the State of Florida created pursuant to Part III, Ch. 163 Fla. Stat., whose address is P.O. Box 4748, Clearwater, Florida 33758, hereinafter called the GRANTOR, for and in consideration of Ten and 00/100 Dollars (\$10.00), and other valuable consideration the receipt of which is hereby acknowledged, does bargain, sell, convey and grant unto : _____, whose address is : _____, hereinafter called The GRANTEE, the federal tax identification number of which is: _____, its successors and assigns forever, the real property, situate, lying and being in Pinellas County, Florida, more particularly described in EXHIBIT "A" attached hereto.

TAX PARCEL I.D. # _____.

Subject to taxes for current year and to those matters listed in EXHIBIT "B" attached hereto.

TO HAVE AND TO HOLD unto the said GRANTEE, its successors and assigns forever, and said GRANTOR warrants and shall defend the title against the lawful claims of all persons claiming by, through, or under it, but against none other.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

IN WITNESS WHEREOF, GRANTOR has caused these presents to be executed in its name by its Chairman this _____ day of _____, 2021.

[SIGNATURE PAGE FOLLOWS]

ATTEST:

COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF CLEARWATER

Executive Director

By:

Chairman

WITNESSES (as to all signatures):

Printed Name: _____

Printed Name: _____

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing SPECIAL WARRANTY DEED was acknowledged before me this _____ day of _____, 2021, by _____, as Chairman, and _____, as the Executive Director of the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF CLEARWATER, a body politic and corporate, on behalf of said entity. Such persons are personally known to me or presented _____ as identification.

Notary Public, State of Florida

My Commission Expires:
My Commission Number:

EXHIBIT D

MEMORANDUM OF AGREEMENT FOR DEVELOPMENT AND PURCHASE AND SALE OF PROPERTY

This Memorandum of Agreement for Development and Purchase and Sale of Property ("Memorandum") is made this ____ day of _____, 2021, by and between the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF CLEARWATER, FLORIDA, a public body corporate and politic of the State of Florida (the "Agency"), whose address is P.O. Box 4748, Clearwater, Florida 33758, and SP CLEARWATER WFH, LLC a Florida limited liability company (the "Developer"), whose address is 5403 W. Gray Street, Tampa, FL 33609.

This Memorandum pertains to an Agreement for Development and Purchase and Sale of Property, by and between the Agency and the Developer, dated as of _____, 2021, (the "Development Agreement"), which provides, among other things, for the sale of property within a project site as described in Exhibit "A" attached hereto and made a part hereof for the development and construction of the Project, as same is defined in the Development Agreement.

If not earlier terminated as provided for in the Development Agreement, the Development Agreement shall expire and shall no longer be of any force and effect (except for those matters which specifically survive such expiration) on the tenth anniversary of the Effective Date (as defined in the Development Agreement).

The Development Agreement is incorporated herein and made a part hereof by reference as fully as though it were set forth herein in its entirety. It is the intention of the parties to hereby ratify, approve and confirm the Development Agreement as a matter of public notice and record. Nothing herein shall in any way affect or modify the Development Agreement, nor shall the provisions of this Memorandum be used to interpret the Development Agreement. In the event of conflict between the terms of this document and those contained in the Development Agreement, the terms in the Development Agreement shall control.

A copy of the fully-executed Development Agreement is on file with the City Clerk, City of Clearwater, Florida, located at City Offices, 600 Cleveland St., Ste. 600, Clearwater, Florida, which is available for review and copying by the public.

IN WITNESS WHEREOF, the parties hereto have set their hands and their respective seals affixed as of the _____ day of _____, 2021.

[SIGNATURE PAGE FOLLOWS]

ATTEST:

**COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF CLEARWATER**

Executive Director

By: _____
Chairman

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by FRANK V. HIBBARD, as Chairman of the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF CLEARWATER, a body politic and corporate, on behalf of said entity. Such persons are personally known to me or presented _____ as identification.

Notary Public, State of Florida

My Commission Expires:
My Commission Number:

SP CLEARWATER WFH, LLC
a Florida limited liability company

By:

By: _____

Name: _____

Its: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by _____, as _____ of _____ SP Clearwater WFH, LLC, a Florida limited liability company, on behalf of the company. He/She is personally known to me or who produced _____ as identification.

Print/Type Name: _____
Notary Public

D-2

EXHIBIT E

AGREEMENT EXPIRATION CERTIFICATE

This Agreement Expiration Certificate ("Certificate") is made this ____ day of _____, _____, by and between the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF CLEARWATER, FLORIDA, a public body corporate and politic of the State of Florida (the "Agency"), whose address is P.O. Box 4748, Clearwater, Florida 33758, and SP CLEARWATER WFH, a Florida limited liability company (the "Developer"), whose address is 5403 W. Gray Street, Tampa, Florida 33609.

This Certificate pertains to an Agreement for Development and Purchase and Sale of Property, by and between the Agency and the Developer, dated as of _____, 2021, (the "Development Agreement"), which provides, among other things, for the sale of property within a project site as described in Exhibit "A" attached hereto and made a part hereof for the development and construction of the Project, as same is defined in the Development Agreement.

The Development Agreement has expired in accordance with its own terms as of _____, 20____, and is no longer of any force or effect, and the Project site is no longer subject to any restriction, limitation, or encumbrance imposed by the Development Agreement. This Certificate has been executed by the parties to the Development Agreement as provided in Section 15.19 thereof and constitutes a conclusive determination of satisfactory completion of all obligations under such Agreement and that the Development Agreement has expired, except for those matters which survive as noted above.

A copy of the fully-executed Development Agreement is on file with the City Clerk, City of Clearwater, Florida, located at City Offices, 600 Cleveland St., Ste. 600, Clearwater, Florida, which is available for review and copying by the public.

IN WITNESS WHEREOF, the parties hereto have set their hands and their respective seals affixed as of the ____ day of _____, _____.

[SIGNATURE PAGE FOLLOWS]

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ATTEST:

**COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF CLEARWATER**

Executive Director

By: _____
Chairman

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by _____, as Chairman of the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF CLEARWATER, a body politic and corporate, on behalf of said entity. Such persons are personally known to me or presented _____ as identification.

Notary Public, State of Florida

My Commission Expires:
My Commission Number:

SP CLEARWATER WFH, LLC
a Florida limited liability company

By:

By: _____

Name: _____

Its: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by _____, as _____ of _____ SP Clearwater WFH, LLC, a Florida limited liability company, on behalf of the company. He/She is personally known to me or who produced _____ as identification.

Print/Type Name: _____
Notary Public

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EXHIBIT F

SURVEY REQUIREMENTS

The Survey shall comply with the following requirements which may be in addition to the requirements of Florida Administrative Code, Rule No. 21HH-6.

1. Field Note Description. The Survey shall contain a certified metes and bounds description and shall comply with the following requirements:
 - (i) The beginning point, which should be established by a monument located at the beginning point, or by reference to a nearby monument, shall be shown.
 - (ii) The boundary of the Property shall be described by giving the distances and bearings of each.
 - (iii) The distances, bearings, and angles shall be taken from a recent instrument survey, or recently recertified instrument survey, by a licensed Professional Engineer or Registered Surveyor.
 - (iv) Curved sides shall be described by data including length of arc, central angle, radius of circle for the arc and chord distance, and bearing.
 - (v) The legal description shall be a single perimeter description of the entire Property.
 - (vi) The description shall include a reference to all streets, alleys, and other rights-of-way that abut the Property surveyed, and the width of all rights-of-way mentioned shall be given the first time these rights-of-way are referred to.
 - (vii) If the Property surveyed has been recorded on a map or plat as part of an abstract or subdivision, reference to such recording data shall be made.
2. Lot and Block Description. If the Property is included within a properly established, recorded subdivision or addition, then a lot and block description will be an acceptable substitute for a metes and bounds description, provided that the lot and block description shall completely and properly identify the name or designation of the recorded subdivision or addition and give the recording information therefor.
3. Map or Plat. The Survey shall also contain a certified map or plat showing and identifying the following:
 - (i) All of the distances, bearings, angles and curves used in the legal description.
 - (ii) The relation of the point of beginning of said plot to the monument from which it is fixed.
 - (iii) Any discrepancies between the map or plat and the description.
 - (iv) All easements showing recording information therefor by volume and page.
 - (v) The established building line, if any.

- (vi) All easements appurtenant to the Property.
 - (vii) The boundary line of the street or streets abutting the Property, the width of said streets, and whether each street is dedicated or private.
 - (viii) Ingress and egress to the Property by the name of street(s) or road(s) upon which the Property fronts, the same being a paved and dedicated public right-of-way; and the name of the governmental entity which maintains the same.
 - (ix) Encroachments and the extent thereof in terms of distance upon the Property or any easement appurtenant thereto.
4. Improvements. The Survey shall also show all structures and improvements on the Property with horizontal lengths of all sides, and the distance from such structures and improvements to (a) all boundary lines of the Property, (b) easements, (c) established building lines, and (d) street lines.
5. Certification. The certification for the Property description and the map or plat should be addressed to Buyer, any lender involved in the transaction contemplated hereby, and to the interested title company, if required by the title company, signed by the surveyor, bearing current date, registration number, and sealed and returned to Buyer in order that it be received along with the seven (7) copies of the survey no later than twenty (20) days prior to Closing. The Survey shall contain the following certificate:

SURVEYOR'S CERTIFICATE

This survey is made for the benefit of _____
_____ and _____.
I hereby certify that this survey:

- (1) was made on the ground as per the field notes shown hereon, and correctly shows the boundary lines and dimensions, area of the Property indicated thereon and each individual parcel indicated thereon;
- (2) delineates all lot lines, shows the location and dimension of all buildings, structures, improvements, parking areas, and any other matters on the Property;
- (3) correctly shows the location and dimensions of all alleys, streets, roads, rights-of-way, easements, and other matters of record, or which are visible, of which the undersigned has been advised or as indicated in that certain Title Insurance Commitment _____ issued _____ by _____ as Commitment No. _____, affecting the Property according to the legal description in such easements and other matters (with instrument, book, and page number indicated); and except as shown, there are no easements, rights-of-way, party walls, or conflicts, and there are no encroachments on adjoining premises, streets, or alleys by any of said buildings, structures, or other improvements, and there are no encroachments on the Property by buildings, structures, or other improvements situated on adjoining premises; and the distance of the nearest intersecting street and road is as shown hereon;
- (4) shows the means of access and location of all adjoining streets; and that ingress and egress to the Property is provided by [name(s) of street(s) or road(s)] upon which the Property fronts, the same being a paved and dedicated public right-of-way maintained by [governmental authority maintaining right-of-way];
- (5) shows the zoning and land use designations of the Property;
- (6) shows the flood zone designation of the Property, and the community name and parcel number where the information was obtained;
- (7) shows the location of the coastal construction control line and seasonal high-water line, as defined in Florida Statutes §161.053 (1985), if applicable; and
- (8) shows the location of any wetlands by which the Department of Environmental Regulation of the State of Florida and/or the Army Corps of Engineers has or may exercise jurisdiction pursuant to the Warren S. Henderson Wetlands Protection Act of 1984, the Federal Water Pollution Control Act Amendments of 1972 and the Clean Water Act.

I do further certify that:

- (1) the Property does not serve any adjoining property for drainage, ingress, and egress, or any other purpose;

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- (2) the street address of the Property is: _____
_____; and
- (3) the Property and all improvements located thereon comply with all dimensional and other requirements of the applicable zoning district; and the use upon the Property is permitted by the zoning and land use designations;
- (4) the total square-foot area, or acreage to the nearest one one-thousandth (1/1000) of an acre, of the Property is: _____;
and
- (5) that the survey represented thereon meets the requirements of the Florida Statutes §472.027 and the minimum requirements under Florida Administrative Code, Rule No. 21HH-6.

By: _____

Registration No. _____

(Affix Seal)

EXHIBIT G

COMPLETION CERTIFICATE

This Completion Certificate ("Certificate") is made this ____ day of _____, _____, by and between the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF CLEARWATER, FLORIDA, a public body corporate and politic of the State of Florida (the "Agency"), whose address is P.O. Box 4748, Clearwater, Florida 33758, and SP CLEARWATER WFH, LLC, a Florida limited liability company (the "Developer"), whose address is 5403 W. Gray Street, Tampa, Florida 33609.

This Certificate pertains to an Agreement for Development and Purchase and Sale of Property ("_____ Project"), by and between the Agency and the Developer, dated as of _____, 2021 (the "Development Agreement"), which provides, among other things, for the development and construction of the _____ Project, within a project site as described in Exhibit "A" attached hereto and made a part hereof, as same are defined in the Development Agreement.

As provided in Article 7 of the Development Agreement, the construction and installation of the _____ Project has been completed substantially in accordance with the requirements of the Development Agreement and such improvements are substantially complete. The parties hereto acknowledge and agree that such Project has been so completed and have executed this Certificate as conclusive determination of such completion and satisfaction of the Developer's obligation under the Development Agreement to construct and install such Project.

A copy of the fully-executed Development Agreement is on file with the City Clerk, City of Clearwater, Florida, located at 600 Cleveland St., Ste. 600, Clearwater, Florida, which is available for review and copying by the public. A copy of the _____ Project Plans and Specifications is on file with the City Engineer, City of Clearwater, Florida, located at Municipal Services Building, 100 S. Myrtle Avenue, Clearwater, Florida, which is available for review and copying by the public.

IN WITNESS WHEREOF, the parties hereto have set their hands and their respective seals affixed as of the ____ day of _____, _____.

[SIGNATURE PAGE FOLLOWS]

AGENCY

COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF CLEARWATER, FLORIDA

By: _____
Amanda Thompson
Chairperson

Approved as to form:

Attest:

Michael P. Fuino
Attorney for
Community Redevelopment Agency

Rosemarie Call
City Clerk

SP CLEARWATER WFH, LLC
a Florida limited liability company

By:

By: _____

Name: _____

Its: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____,
2021, by _____, as _____ of _____ SP
Clearwater WFH, LLC, a Florida limited liability company, on behalf of the company. He/She is personally
known to me or who produced _____ as identification.

Print/Type Name: _____
Notary Public

EXHIBIT H

DEVELOPER'S PROPOSAL